

THE ABANDONED LAND REUSE ACT OF 1993—S. 299

Y 4. B 22/3: S. HRG. 103-159

The Abandoned Land Reuse Act of 199... **RING**

BEFORE THE
COMMITTEE ON
BANKING, HOUSING, AND URBAN AFFAIRS
UNITED STATES SENATE
ONE HUNDRED THIRD CONGRESS

FIRST SESSION

ON

S. 299

TO AMEND THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974 TO ESTABLISH A PROGRAM TO DEMONSTRATE THE BENEFITS AND FEASIBILITY OF REDEVELOPING OR REUSING ABANDONED OR SUBSTANTIALY UNDERUTILIZED LAND IN ECONOMICALLY AND SOCIALLY DISTRESSED COMMUNITIES, AND FOR OTHER PURPOSES

MAY 5, 1993

Printed for the use of the Committee on Banking, Housing, and Urban Affairs



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THE ABANDONED LAND REUSE ACT OF 1993—S. 299

WEDNESDAY, MAY 5, 1993

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
Washington, DC.

The committee met at 10:06 a.m. in room SD-538 of the Dirksen Senate Office Building, Senator Donald W. Riegle, Jr. (chairman of the committee) presiding.

OPENING STATEMENT OF CHAIRMAN DONALD W. RIEGLE, JR.

The CHAIRMAN. The committee will come to order. Let me welcome all those in attendance this morning.

Before we begin today's hearing, I would note for the record that the committee is voting favorably on reporting the nomination of Roberta Achtenberg and Nicholas Retsinas to be Assistant Secretaries of Housing and Urban Development. The period for voting will begin now. If a quorum of members arrive to cast their votes during the hearing, the nominations will be reported to the full Senate later today.

So I want to be recorded in the affirmative on both and I will have the clerk also ask Senator Campbell for——

Senator BOND. I have asked to be recorded voting aye on both too, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Bond. I will make a brief opening statement and then I will call on my colleagues for opening comments that they wish to make.

It is a very important hearing this morning. We are here to consider S. 299, the Abandoned Land Reuse Act, that I introduced on February 3, 1993, with my colleagues Senators Dodd, Boxer, Moseley-Braun, Senator Jeffords, who is here and I will call on in a bit, Senator Levin, and Senator Simon. And I am anticipating introduction of a companion bill in the House of Representatives very shortly.

This legislation addresses the need to recycle abandoned industrial and commercial facility sites across the country. The transformation of the American economy from an industrial—from heavy industrial production in certain instances—to commercial service activity has caused many casualties. Trade patterns have also had an influence. Hundreds of communities have lost jobs and have seen their tax base severely eroded.

As old plants have been shut down and either moved away or torn down, there are hundreds of communities with either now idle plants or idle plant sites with conditions that require cleanup and

which also present very difficult liability risks that deter new investors and lenders from providing the capital needed to bring this land back into use with new activity.

Michigan, of course, as the center of the country's automobile industry and a major producer of furniture, paper, wood products, chemicals, and pharmaceuticals, has communities and sites like this throughout our State, but it is a common problem in the country. In fact, Michigan and other States are also considering legislation to respond directly to this serious problem.

The consequences of continued abandonment of formerly useful industrial plant and commercial facility sites and buildings include the following:

Limitations on the availability of credit for enterprises, especially small businesses, that are prepared otherwise to put these sites and facilities back into use;

Underutilization of both public and private infrastructure already in place that serves these sites;

Increasing tax and utility fee burdens on residents that impair their ability to pay for other basic expenses, because the tax base is impaired and, therefore, a larger share of tax spills over on others;

Continued deterioration in the financial condition of local communities which in turn undermines their ability to afford the costs of complying with Federal mandates, and often pressures them into looking to the State and Federal governments for increased help and assistance;

And, also, the inability to recycle these sites now creates a push to go out and many times use prime agricultural land in suburban and rural areas and bring that into new development, as opposed to reusing the land already available, if this problem can be solved.

So, I think it's clear that a national strategy to revive our economy and revitalize our distressed communities must address the need to recycle these abandoned industrial and commercial facilities. We have asked each of the witnesses today to address the following questions:

What are the potential benefits of the Abandoned Land Reuse Act? How can we maximize the leverage of non-Federal investment with the grant assistance that we provide? And what changes in the legislation and related initiatives will be helpful?

Our witnesses today are: Greg Pitoniak, who is here from Michigan. I am very pleased that he is. He serves as chairman of the Economic Development Committee of the Michigan State House of Representatives. Mr. Edward Parker for the Connecticut Department of Environmental Protection; Mr. Ted Wysocki, who is the executive director of the Chicago Association of Neighborhood Development Organizations; Mr. Salvatore Scotto, who is the president of the Gowanus Canal Community Development Corporation of Brooklyn, New York; and, Sandy McCollum, director of Economic Development for South East Community Organization in Baltimore. So, we have a very good panel of expert witnesses.

Before we get to them, I especially want to welcome our Senate colleague, Senator Jeffords, from Vermont, who is also serving as co-chair of the Northeast-Midwest Senate Coalition. And Senator Jeffords has come forward and we are working together on this ef-

fort to address the need to recycle these former industrial and commercial sites. I appreciate his leadership and his co-sponsorship and authorship in this area, and I am delighted he is here. We would like to hear from you now.

Well, before we go ahead, let me see if other members have opening statements.

Senator CAMPBELL. I have no opening statement, Mr. Chairman.

Senator BENNETT. No, thank you, Mr. Chairman.

The CHAIRMAN. Senator Jeffords, again, welcome.

OPENING STATEMENT OF SENATOR JAMES M. JEFFORDS

Senator JEFFORDS. Mr. Chairman, I can't tell you how pleased I am to be here at this hearing. I think it is a very important one for the country and especially for our region.

As you have already mentioned, this is the Abandoned Land Reuse Act of 1993. The purpose of S. 299 is to promote the remediation and reuse of abandoned manufacturing facilities. The premises underlying the bill are these: First, substantial private and public capital has been invested in these sites already. Second, these sites have infrastructure—water, gas, utilities, rail sidings, and the like—already in place. Third, these sites, if left abandoned, may pose threats to human health and the environment due to contamination. Fourth, they certainly contribute to the blight and deterioration of surrounding communities. Fifth, it makes more sense to redevelop these so-called brown field sites than to encourage urban sprawl and the destruction of the so-called green field sites, our agricultural lands and open spaces. And sixth, the redevelopment of these sites will offer important job, economic development, and tax-base benefits to distressed local communities.

S. 299 represents a sort of a bottle bill ethic of recycling and reusing rather than abandoning and discarding.

S. 299 builds upon the pioneering work of the Northeast-Midwest Institute in exploring the extent of the problem and possible solutions. The problem is certainly concentrated in the Northeast-Midwest region, our Nation's industrial heartland. We have abandoned machine tool shops up and down Precision Valley in my state of Vermont. We have shuttered steel mills in Pennsylvania's Monongahela Valley, empty automobile assembly facilities, metal plating factories, and chemical plants throughout Michigan and the rest of the midwest.

Shifts in America's industrial base from predominantly heavy manufacturing to light manufacturing, dependency on just-in-time specialty production and distribution, and increasing reliance on highways rather than railroads and waterways have rendered many of these manufacturing sites underutilized or even obsolete. But the problem, while concentrated in our region, is truly national in scope. Southern towns have empty textile mills. Western towns have abandoned mining and ore processing facilities.

S. 299, which amends the Housing and Community Development Act of 1974, authorizes \$100 million annually for fiscal years 1994, 1995, and 1996 for a nationwide site reuse demonstration program. The bill authorizes the Secretary of Housing and Urban Development to select sites for assistance on a state-by-state basis, or to

delegate site selection and related funding to States' governors where appropriate.

Federal grants can cover up to 75 percent of the cost of an approved site remediation and reuse plan. Grantees—general purpose local governments and non-profit community development organizations—are required to pay a minimum of 25 percent of the cost. Non-Federal third parties may help grantees satisfy this requirement through financial assistance or in-kind contributions. The bill contains avoidance of windfall and grant recapturing provisions.

Federal facilities and national priority list NPL—"Superfund"—sites are excluded.

Criteria for site and plan selection include the following: The project must be economically viable, that is, benefits must exceed costs. The project must leverage significant non-Federal investment. The site must be located in areas of economic and social distress. And the project must offer local job training and employment opportunities.

Several States are moving ahead with their own programs, which is to be commended and encouraged. But States, local governments, non-profits, and the private sector cannot tackle this problem without Federal assistance. Our bill takes a first step toward providing this kind of assistance.

Mr. Chairman, abandoned manufacturing facilities represent an enormous waste of physical resources and capital. Their remediation poses a daunting challenge.

Entities traditionally antagonistic toward one another will have to work together to meet the challenge. We need to address complicated liability concerns. We need to consider creative measures such as covenants not to sue, environmental receivership, environmental warranties, tax increment financing, standardized and expedited processes for voluntary cleanups, and tiered cleanup standards.

It will be difficult to achieve nationwide remediation and reuse, but the costs of not making the effort in financial, fiscal, and human terms are too great to bear. S. 299 is an important piece of legislation, Mr. Chairman. I commend you for its introduction and look forward to working with you to make sure it becomes implemented.

Thank you.

The CHAIRMAN. Senator Jeffords, let me just say I very much appreciate your efforts on this legislation. And the fact that we can do this on a bipartisan basis, I think this is precisely the kind of an issue that is very much in the national interest. And it's the kind of thing, if we don't take a step like this to break the inertia in the existing pattern, we're going to find more and more key sites locked up and locked out of production with all of the attendant bad effects that we have both described here this morning.

I think this is a good example of a partnership approach between the Federal Government, State governments and private interests who see opportunities to take and bring these facilities and these sites back into the economic mainstream. I think the sooner we do this, the better off we're going to be as a Nation.

And so I am hopeful, too, that as our colleagues in the Senate have a chance now to study the hearing record that we will build

today and to examine this, that we will get very strong bipartisan support for this. But, again, I appreciate your leadership.

Senator D'Amato has joined us. Did you have an opening comment, Senator D'Amato, that you wanted to make?

OPENING STATEMENT OF SENATOR ALFONSE M. D'AMATO

Senator D'AMATO. I want to commend you and Senator Jeffords for your work in this area. I think there are issues on this bill that maybe we will have to work out, but certainly it is movement in the right direction. I know that we have a number of people from New York on the panel that are going to be testifying on behalf of the Gowanus Canal Community Development Corporation in Brooklyn where they have had an incredible problem. And this group has made a very real commitment to the cleanup and redevelopment of this area. They're bringing back jobs and creating an opportunity for people to live in a good environment.

So I am especially interested in their comments. But I first want to commend you for calling this hearing.

I would hope that, Mr. Chairman, we would have the opportunity to do something by passing the lender liability legislation that has passed the Senate twice before and maybe make sure this time we get that passed, because that's another area that I think will make it possible for us to deal with some of these abandoned sites and also free up capital and make it again, once again, opportune and attractive for banks to make money available, which they are not doing because of uncertainties about their environmental liability. I think both of these initiatives make a lot of sense.

The CHAIRMAN. Senator Campbell or Senator Bennett, any questions for Senator Jeffords?

[No response.]

The CHAIRMAN. If not, let me thank you again for coming and we will continue to work on this and we appreciate your appearance this morning.

Let me now call, if I may, our other panel of witnesses forward. We've got name tags up here, if you want to come forward at this time, we'd be pleased to have you do so. Let me welcome you all.

As you're getting seated, I want to place in the record a very strong supportive letter that we've received from the Association of State and Territorial Solid Waste Management Officials, in which they endorse this legislation, feel it's very important to reclaiming these sites, and which I think will help us in our efforts to move this legislation.

So without objection, we will make that a part of the record.

And also, before we go any further, Senator Moseley-Braun, did you have an opening comment you wanted to make before we go to the witnesses here?

OPENING COMMENT OF SENATOR CAROL MOSELEY-BRAUN

Senator MOSELEY-BRAUN. Thank you, Mr. Chairman.

Actually, I would like to file for the record my opening statement and not make it, except to welcome the panel. This is important legislation. I have had experience over the years with Mr. Wysocki, who is from Chicago, and good work that CANDO has done in our community. And so I just want to congratulate them for continuing

to press forward in this area and commend them for doing the good work that they have done so far.

The CHAIRMAN. Without objection. And let me say, your cosponsorship of this legislation is also a very important part of the push it's receiving and I thank you for that.

Let me start by introducing Mr. Greg Pitoniak. And if I may just take a moment, we have a personal and professional relationship that stretches back over many years. I want to just acknowledge the leadership that he is giving in the State of Michigan and has for some time in the economic development area. I think he's one of the most creative thinkers that we have in this area in our State. I am very grateful as a citizen of Michigan for the leadership that he gives.

And so we welcome you here today. I am going to have you pull that mike a little closer, so people can hear you. You can bend it up and down, whatever's convenient. We'll make your full statement a part of the record. I say that to the other witnesses as well. We'd like to have your summary comments, so we have some time left for questions.

Representative Pitoniak, we'll start with you.

STATEMENT OF GREGORY PITONIAK, MICHIGAN HOUSE OF REPRESENTATIVES, LANSING, MI

Representative PITONIAK. Thank you, Mr. Chairman, and especially for those kind remarks and for the opportunity to address this committee on S. 299, the Abandoned Land Reuse Act of 1993.

As Chairman of the Economic Development Committee of the Michigan House of Representatives, I am acutely aware of the need for cooperation among Federal, State, and local governments in order to promote models for timely redevelopment of abandoned, underutilized, or contaminated commercial and industrial sites.

Let me briefly review Michigan's situation and give you an insight of how important this legislation is to us.

Each year, pursuant to the Michigan Environmental Response Act, or MERA, a list is prepared of Michigan sites of environmental contamination, which identifies environmental contamination locations and ranks these sites according to a scoring system that reflects the sites' risk to public health and the environment. The fiscal year 1994 list was just released and identifies 8,757 sites in the State of Michigan. There are 83 counties in Michigan and every one of these counties has a site of environmental contamination, and we average over 100 such sites in each of the counties.

As defined by MERA, environmental contamination means the release of hazardous substance or the potential release of a discarded hazardous substance in a quantity which is or may become injurious to the environment or the public health, safety, or welfare.

Of the over 8,000 sites, over 1,000 are listed as inactive. And these inactive sites are defined as sites where a remedial action plan has not been approved by the Michigan Department of Natural Resources. Every one of our counties has one of these inactive sites.

Examples of communities which contained abandoned, underutilized, or inactive contaminated sites and are facing severe

economic and social distress are located in each of Michigan's three DNR regions as detailed in my prepared text for today's hearing. In Michigan, we like to refer to our state as the "Water Winter Wonderland." But the abundance of rivers and lakes has also created swamp areas that were once tempting locations for dumping industrial fill materials like fly ash, which contain high levels of metals.

Michigan has at the State level undertaken some efforts that attempt to deal with this problem. Let me briefly outline some of our efforts.

Under Public Acts 233 and 234, adopted in 1990, it provides an environmental enforcement mechanism and settlement process for Michigan. With this legislation, the State is able to more successfully pursue the responsible parties for their share of the cleanup costs. These acts set up a mechanism which will increase voluntary settlements and decrease the amount of money spent on litigation costs. These acts outline the basic enforcement tools of the State and liability provisions for contaminated sites. They also outline an allocation process which can be used for negotiating a settlement regarding responsibility for cleanup costs.

These public acts were designed to be a polluters pay policy and encourage settlements. The allocation process gives parties an avenue to avoid joint and several liability through agreement on remedial action and cleanup procedures.

Another program in Michigan is known as the site reclamation program. And this program acknowledges that throughout the State of Michigan there is an alarming trend in the growth of older towns and cities. As people move away from cities and into the surrounding suburbs, industry follows. This shift of job centers from cities to outlying communities leaves abandoned industrial and manufacturing facilities idle while green spaces and wetlands are lost to new development.

In November 1988, Michigan voters improved an \$800 million environmental protection bond. Of that bond, \$425 million was targeted toward cleanup and reclamation of sites contaminated with hazardous substances. The goal of the site reclamation program is to facilitate environmental cleanups and promote reuse of contaminated sites.

And finally at the State level, just last week, a legislative package was presented to address the recommendations from a citizens' advisory group aimed at encouraging private investment in older towns and cities without sacrificing environmental protection and public health. The legislation would provide increased incentives for lenders to provide loans to businesses for redevelopment of contaminated urban sites, increase liability protection to lenders in order to encourage the marketing of contaminated property after foreclosure, expand the kinds of commercial lenders that will receive the protection to include large insurance companies and other institutions, allow a governmental agency to transfer its liability exemption on contaminated property to new owners as certain conditions are met, and to clarify the process for compensating an owner for contaminated property that is condemned.

I was asked to respond to some specific issues raised by the committee and let me do that now.

I believe S. 299 will provide local governments on a demonstration basis significant financial tools to reclaim, rehabilitate, and eventually reuse abandoned or underutilized commercial and industrial sites in communities plagued by social and economic distress. This legislation would allow local government officials to take control of their community's destiny by aggressively spearheading efforts to restore parcels of property with economic redevelopment potential with the goal of making those parcels attractive to investors and developers.

The thrust of the bill is empowering local officials to directly attack the financial impediments they face in rebuilding their communities.

Other benefits of S. 299 include promoting the utilization of existing infrastructure. Instead of abandoning our older towns and cities in favor of urban sprawl, we must place a priority on redeveloping areas that already have roads, sewers, and other public improvements.

In addition, S. 299 would promote spinoff economic activity. Once a site has been selected and redeveloped, its reuse could spur economic development in the immediate vicinity. For example, under one Michigan program, we funded the reopening of an old shipping canal through cleanup activities including excavation of the contaminated fill materials in the canal. The resulting economic benefit was the establishment of commercial businesses, offices, retail, and restaurants in buildings near the canal.

Also, S. 299 would encourage an area-wide approach to the problem. Currently, our State reclamation program in Michigan provides grants and loans to encourage redevelopment of specific sites, but area-wide incentives are needed to create a more comprehensive redevelopment program. Instead of reclamation on a site-by-site basis, under S. 299, planned programs for a variety of new economic developments could be encouraged for multiple properties encompassing many blocks or several square miles within local communities.

What about the feasibility of S. 299? Without exception, from the largest city to the smallest village in Michigan, communities have become warehouses for abandoned and underutilized parcels of commercial and industrial property. For a variety of complex, inter-related reasons, commercial and industrial enterprises have engaged in a steady exodus from our State's more established towns and cities to green field sites in distant suburban communities. The job-seeking population has followed, leaving behind thousands of attractive commercial and industrial sites served by superb infrastructure that could be rehabilitated and redeveloped. The greatest impediment to reuse from the local government level is a lack of adequate financial resources to begin and complete the rehabilitation process.

The principal objective of S. 299 would be to provide local governments with the financial means that will bring about renewal and reuse of these valuable pieces of property. There are literally thousands of properties and hundreds of Michigan communities that could qualify for funding under the site redevelopment demonstration program envisioned in S. 299, which would give our local officials the means to inventory abandoned and underutilized commer-

cial and industrial sites in their communities, to prioritize local communities' site inventory lists, for reuse and redevelopment potential, and to assess the costs for removing unsafe structures, remediating environmental contamination, and rebuilding site infrastructure.

In order to achieve the legislation's objectives, I do believe it is critical to the success of the program that the factors for selecting these demonstration projects be as specific and stringent as possible. In order for the selected projects to adequately serve as models, considerable weight should be given to a well-documented commitment to the project at the State and local community level. We believe Michigan has superb legal and programmatic tools in place to take full advantage of the opportunities proposed in the bill before this committee.

Some other ideas for legislative or administrative action to support S. 299 would include assistance in land acquisition to encourage redevelopment with modern facilities on parcels which were sufficiently sized and shaped for another era but do not meet today's needs.

In addition, communities may need assistance in relocating residences or businesses from newly planned industrial commercial areas to make room for modern development. Consequently, communities may need assistance in the development of new housing or in the rehabilitation of existing housing in order to accommodate relocatees. And, of course, although jobs will be created through S. 299, there will be the need for the continuation and expansion of job training programs in order that disadvantaged community residents will be prepared to step up to those new employment opportunities when they occur.

Mr. Chairman, members of the Senate Banking Committee, the vitality of major industrial centers in this country, such as my district, relies heavily on a foundation of industrial jobs. With the decline of industrial jobs, the problems we are facing today seem monumental. And certainly no one single program can address them all or reindustrialize America.

However, a part of our industrial policy must be to insist that former industrial and commercial areas are given equal consideration for investment as are new, green space areas. I believe this legislation will help promote this policy and assure a strong environmental stewardship.

Thank you for the opportunity and honor to share my views and ideas. And I am available for questions.

The CHAIRMAN. Great. Excellent statement. We appreciate it and the leadership as well.

Senator Shelby, did you have an opening comment you wanted to make?

Senator SHELBY. No, I don't. I appreciate being called.

The CHAIRMAN. Senator Domenici, did you have a comment you wanted to make at this point?

If not, Mr. Parker, you serve with the Connecticut Department of Environmental Protection and we are delighted to have you and we will make your full statement a part of the record. We'd like to hear from you now.

STATEMENT OF EDWARD PARKER, CONNECTICUT DEPARTMENT OF ENVIRONMENTAL PROTECTION, HARTFORD, CT

Mr. PARKER. Thank you, Mr. Chairman. Good morning to you and good morning to the other Senators present this morning. I am honored to be here to have an opportunity to share with you Connecticut's experience in dealing with this very important issue.

The CHAIRMAN. Before you proceed, let me just say Senator Dodd very much wants to be here. He's got a conflict that he's working with, but he wanted me to say that and he's very interested in your testimony.

Mr. PARKER. Thank you.

We've taken a look at this bill and worked closely with your staff, and we would like to commend you and the co-sponsors for introducing a bill that takes a straightforward, common sense approach in dealing with a very important issue.

This proposal will provide much needed funds which in part will be used to undertake the evaluation and remediation of abandoned and underutilized sites in distressed communities throughout this country so those sites can be returned to productive use.

From the perspective of an environmental agency, this bill will remove the single most important constraint on redevelopment and reuse, which is on-site pollution and the environmental liability associated with it.

Time and time again it has been our experience in Connecticut that investors, developers, and banks will not provide the capital for reuse and redevelopment unless at a minimum site evaluations are undertaken to determine the extent and degree of pollution on sites, to identify what if any remedial measures could be implemented. No one wants to be responsible for the pollution that was created by others. And in some cases, that pollution was created 30, 40 years ago if not longer. If we are to return these sites to productive use, this environmental obstacle must be overcome.

In Connecticut alone, we have identified more than 100 contaminated industrial sites in our major urban areas that were once vibrant manufacturing centers.

The CHAIRMAN. Could I interrupt just a minute? Would you pull the mike a little closer to you? I think people in the back of the room may be having a hard time hearing you and I just want to make sure they can as well.

Mr. PARKER. Sorry.

In Connecticut alone, there are more than 100 abandoned underutilized sites in our urban areas that were once vibrant manufacturing centers. We've identified these sites as part of our urban site program, which was enacted into law in Connecticut as Public Act 92-235 in the last legislative session.

We recognize that in order to go forward with rebuilding our State's economy and to bring back the industrial manufacturing jobs that we have lost, it was critical to provide clean sites for business and industry to come back to. So in undertaking this program, the State of Connecticut, using bond funds, has implemented a program to do just that. We are utilizing State money to have consultants do environmental evaluations so the State of Connecticut can give investors and developers and lending institutions the highest degree of confidence that a thorough and comprehensive study and

evaluation have been done and to determine what I call the environmental base line. Until an environmental base line has been established at these sites, no one will accept a risk associated with contamination that is undefined.

Currently, our General Assembly is considering legislation to expand further the program that we implemented as a pilot last year. An additional \$20 million in State bond funds will be committed to this effort. In addition we are providing funding for six full-time staff to implement this program.

S. 299 will enhance and complement our efforts to date and is a little broader in scope than what we have offered in the State of Connecticut. There are clearly many benefits associated with this program that you, Mr. Chairman, have identified as well as Senator Jeffords and my colleagues here. I am not going to repeat those; they're in my written statement.

But to touch on a few, we do not want to see environmental sprawl continue in our rural areas. We want to reutilize the existing infrastructure in our cities. We want to bring back to life these old facilities, restore tax revenue to our cities, additional revenue to the State of Connecticut. And the only way to do this, again, is to go forward and take the initial step with the help from State government and the additional help that this bill would provide from the Federal Government to implement this program.

There are a couple of issues that I would like to bring to the committee's attention with respect to specific provisions in the bill. I would ask that the committee consider additional flexibility to enable the State, at the State level, to fully implement this program in those cases where States have already enacted legislation. In doing so, it would minimize administrative and oversight costs, and would help to minimize duplication of effort at the local level versus the State level.

The State has a program already set up to implement this particular program. If that is duplicated at the local level, time and energy will be spent redoing what the State has already done.

In closing, we would be happy to provide additional assistance to the committee as you work to complete this initiative, and I would like to thank you for the opportunity to testify and we'd be happy to answer any questions that you might have.

The CHAIRMAN. Very good. Before we proceed, I want to call on Senator Dodd, who I indicated was very interested in your testimony here this morning.

Senator Dodd.

OPENING STATEMENT OF SENATOR CHRISTOPHER J. DODD

Senator DODD. Well, very briefly, Mr. Chairman, let me commend Mr. Parker for his testimony. As Mr. Parker has pointed out, our State of Connecticut has developed a pilot program in this area. And Connecticut has a number of sites that could benefit from this legislation. A good example is the Century Brass site, which covers almost 100 acres in downtown Waterbury. It was a munitions factory, basically, going back to the Civil War. But the pollutants at that site have made the cost of redevelopment overwhelming. Yet it is a major site in the center of a city. To be able

to rehabilitate, if you will, recapture that land would be a great benefit to the city of Waterbury.

We need to develop creative ways to help cities like Waterbury, Hartford, Bridgeport, and New Haven develop these sites and provide jobs. This bill is a healthy start. I would like to commend you, Mr. Chairman, and also Senator Moseley-Braun and Senator Boxer for your efforts on this legislation. I think it's an absolutely essential ingredient for economic development in cities and towns across this country that have these sites just littering the landscape.

I'll submit my complete statement for the record.

The CHAIRMAN. Without objection. I want to thank you also for your role in this, your cosponsorship and your advocacy on this issue, and I think now strongly reinforced by our witness from Connecticut.

Let me now move to Mr. Wysocki. You're the director of the Chicago Association of Neighborhood Development Organizations and obviously your testimony is a matter of great interest to Senator Moseley-Braun, as to all of us here.

We will be pleased to hear from you now. We will make your full statement a part of the record.

STATEMENT OF TED WYSOCKI, CHICAGO ASSOCIATION OF NEIGHBORHOOD DEVELOPMENT ORGANIZATIONS, COALITION FOR LOW INCOME COMMUNITY DEVELOPMENT, CHICAGO, IL

Mr. WYSOCKI. Good morning, Senators, and thank you for this opportunity to discuss one of the most difficult obstacles facing older urban areas. Your leadership and hard work of your committee staff should be commended for proposing this demonstration program to restore abandoned sites to productive economic uses.

I also wish to express my appreciation for Senators Moseley-Braun and Simon for their cosponsorship of this legislation.

The Abandoned Land Reuse Act of 1993 will serve as a catalyst for encouraging the development of affordable modern industrial space in the city of Chicago and throughout the country. This is a pressing need that began to draw the attention of our coalition in 1989. CANDO is the largest city-wide economic development coalition in the United States. Our 65 nonprofit members and our 100 affiliate members are working every day to improve the local economy of Chicago's neighborhoods. My written testimony describes CANDO's variety of economic development strategies.

My reason for providing you with that background on CANDO is to emphasize to you that the part of our economic development platform with the most potential for jobs is industrial development. All of our components are critical, but the largest number of jobs will be retained and created by turning fallow land into new homes for industry.

The missing piece of this puzzle to date has been environmental remediation of these sites that are in proximity to labor force, transportation, and existing infrastructure. We must turn these eyesores, which have become urban liabilities, into assets that deliver jobs for Americans.

I had the personal and professional privilege of discussing with President Clinton yesterday his plan for 10 empowerment zones

and 100 enterprise neighborhoods. I took the liberty to draw his attention to the bill before this committee today as a key element in implementing the comprehensive strategies for job growth and economic recovery that his dramatic new initiative is designed to encourage. He responded by noting not only the need to address environmental remediation, but also its potential for job generation.

I offer my testimony today in support of S. 299 on behalf of CANDO's members who are actively confronting the problem in their communities. For example, Greater North Pulaski Development Corporation is working with the city of Chicago to develop a 9-acre site to capture industrial growth while replacing a block of ruin. And I have attached a Chicago Sun Times article from March 14 of this year that gives a full case of the stories and the issues that they are confronting.

Another example is to be found in Bethel New Life which has entered into a partnership with Argonne National Laboratory to clean up abandoned properties on Chicago's west side as a job strategy itself. And again, I have attached an article, this time from Crain's Chicago Business in February that talks about this new public-private partnership.

The provision in S. 299 that includes non-profit community development corporations as eligible grantees is a key component to encourage local initiation and involvement.

I also offer my testimony as a Steering Committee member of the Coalition for Low-Income Community Development, a national group focused on ensuring local benefit from Federal programs. They, too, support nonprofits as eligible grantees in order to assure more connections to employment opportunities generated by projects funded.

The Coalition is pleased that 5 percent of funds appropriated under S. 299 may be used for technical assistance grants to determine appropriate means of implementing job training programs in connection with reuse projects.

I also testified today as a delegate agency of the city of Chicago's Department of Planning and Development, which is currently pursuing the development of 7 industrial parks within the city. A 1991 study by Chicago's Economic Development Commission documented the demand for 45 million square feet of industrial space in the city. Yet, we only have 15 million square feet currently available. And most of that is obsolete for modern manufacturing.

Planning and Development Commissioner Valerie Jarrett testified on January 29, 1993, at a Northeast Midwest Congressional Coalition hearing in Chicago. She noted:

We estimate that there are over 200 acres of moderately to severely contaminated sites within Chicago. Even if the cost of remediation may only be a small percentage of the land value, it is extremely difficult to package a redevelopment project for the property given laws which expose prospective purchasers and lenders with risk of liability. Past environmental contamination may become their future liability even though they did not contribute to the prior contamination. In many cases, this risk is too high, especially in light of the availability of so-called green grass environmentally clean sites.

I would note that we continue to build roads to where it's greener while sites with good transportation have been left to decay. We continue to condemn America's work force to long commutes while they live surrounded by abandoned land. This is not environ-

mentally sound or family friendly public policy. It is not profitable public investment.

I would also like to testify on behalf of small businesses—

The CHAIRMAN. Could I ask you to stop just a minute. Senator Domenici had a question that he wanted to pose right here and I'd—

OPENING COMMENTS OF SENATOR PETE V. DOMENICI

Senator DOMENICI. Thank you, Mr. Chairman.

When you speak of these industrial sites that are not going to be developed because—one reason being because of the environmental degradation and liability costs, who owns most of this kind of land? Is it abandoned literally?

Mr. WYSOCKI. It's a variety, Senator. Some of it still has current owners who aren't doing anything with the property. Others have reverted back to local municipalities, whether they be the city or the county, because they're tax delinquent, and basically they are abandoned; the previous owners have walked away from them.

Senator DOMENICI. Thank you, Mr. Chairman.

The CHAIRMAN. Why don't you go ahead, Mr. Wysocki.

Mr. WYSOCKI. I would also like to testify on behalf of small businesses who run into this roadblock to their expansion plans. My written testimony offers part one of the ongoing story of Trendler Metal Products, a family owned company that is trying to stay and expand in Chicago.

The current episode leaves Trendler without a site. Meanwhile, the clock is ticking on their future expansion, and they may be forced to leave the city with their 100 jobs, specifically because of this issue of environmental contamination.

In closing, I would like to acknowledge the collaboration of the Northeast Midwest Institute. We cosponsored with them a conference in Chicago 2 years ago that brought much attention to this issue of confronting environmental and economic issues to industrial use. And my written statement offers a quote from a recent study of theirs that emphasizes the need for financial incentives to encourage this new development.

Finally, let me emphasize that S. 299 offers a new direction for the U.S. Department of Housing and Urban Development to pursue jobs by encouraging local initiatives to reuse a fundamental resource: land. Let me assure you that the principal objective of the legislation, to restore the marketability of abandoned land, is very feasible.

In fact, the funding proposed is exactly the kind of up-front public investment required to leverage maximum private capital in re-developing abandoned sites. Chicago would welcome this new Federal funding. We will invest it wisely, and you will see a return in more Americans working. Blocks of rubble and debris can again produce livable wages. But the land must first be cultivated.

Again, thank you for your initiative. I look forward to monitoring the legislation's progress. Projects are waiting to be done in Chicago's neighborhoods.

Thank you.

The CHAIRMAN. I would like to note for the record that all Senators but two have come and recorded their votes. There are sufficient votes for the nominations to be reported out favorably.

I so indicate, and I expect that we will have the last two votes recorded here shortly, and then we'll announce those final votes.

Senator D'Amato, do you want to introduce Mr. Scotto?

Senator D'AMATO. Mr. Chairman, very briefly, Salvatore Scotto has been one of the tremendous community leaders in the fight to reclaim and make habitable the entire community in surrounding Gowanus Canal, an area that has been blighted through no fault of the people, by the contamination of the canal, the filling up of it, and the failure to be able to respond in a positive manner.

I want to say that they have never given up, and as a result, I think we are at a point where, hopefully, once we get an area to determine where we can dump the dredged materials—

By the way, you talk about a catch 22. Here they have all these contaminated areas. You know the land and water are contaminated so you pick it up, and EPA says, well, no, you can't put it here, and you can't dump it in the ocean, and you can't put it in a landfill. So they are stuck, I mean, literally, as they're ready to go. And this is the kind of situation that we address.

But, Salvatore, I want to congratulate you and thank you for coming to testify. We are looking forward to your testimony, and more importantly, to help make your efforts a reality so that we can really give vitality to a great neighborhood.

STATEMENT OF SALVATORE SCOTTO, GOWANUS CANAL COMMUNITY DEVELOPMENT CORPORATION, BROOKLYN, NY

Mr. SCOTTO. Mr. Chairman, members of the committee, I appreciate that you've given me the opportunity to testify before your committee today, on a bill that could prove to be of immeasurable value to my community's 20-year-long struggle to rehabilitate Brooklyn's historic Gowanus Canal area. The Abandoned Land Reuse Act of 1993 represents an important step in the recognition of the importance of rehabilitation and development of industrial land to the economic condition of America's inner city.

Before addressing some of the questions you have raised about the proposed legislation, I'd like to give you some background on our efforts to clean up the Gowanus Canal.

The Canal, once a creek that was widened in 1774 by the Colonial Assembly of New York, was one of the busiest commercial-industrial waterways in the world, and was the heartbeat of Brooklyn's industrial area. Over the years, the Gowanus Canal became polluted, and the lack of any way to flush it out hampered efforts to clean it up.

A tunnel was constructed in the early 1900's that extended out to the channel near Governor's Island, which allowed fresh water from the Bay to be pumped into the head of the canal to flush out the pollutants. The tunnel remained in operation until the mid-1960's, when a propeller shaft on the pump broke. An inadequate pumping station and broken propeller shaft returned the canal to its previous stagnant state. The unsightliness, stench, and disease-ridden canal contributed to a decline of industry in the area as

about 50 percent of the commercial space became unused and derelict.

The Gowanus Canal Community Development Corporation, in the 1970's, began to focus on the environmental degradation of the Gowanus Canal and its environs. The Gowanus Canal Community Development Corporation has been struggling with the issue and is committed to deal with the problem of the abandoned and contaminated sites along the Gowanus Canal. The contamination of land in the area has clearly been a barrier to private investment.

Our concern over adaptive reuse cannot be addressed until the cleanup of the waterway and underutilized industrial land is accomplished.

The Gowanus Canal CDC has completed the first stage of the rehabilitation process by spearheading an aggressive campaign in the early 1970's to leverage public funds. Nearly \$480 million was allocated to build the Red Hook Interceptor Sewer Treatment Plant, and to repair and replace mechanical systems of the Flushing Tunnel and Pumping Station of the Gowanus Canal, and to dredge the canal.

In recent years, the community has had New York City's commitment for clean-up efforts. The municipal government has already committed funds to fully reactivate the Flushing Tunnel that has been inoperable for nearly 40 years. New York City's Department of Environmental Protection is required to dredge the canal from time to time as necessary. DEP has the money secured to dredge the canal. However, the Army Corps of Engineers' Federal guidelines precluded the opportunity of ocean dumping, which leaves the city to deal with this material.

The clean-up is necessary to adaptively reuse the land bordering the canal that the Abandoned Land Reuse Act of 1993.

Our community-based housing, economic and environmental organization, the Gowanus Canal CDC, has reached out to a group in Pennsylvania that has developed a highly innovative application of ancient technology, the process of vitrification, that would allow for the possibility of dredging the canal and dealing with the material at the bottom of the canal. A Federal investment could help with the clean-up and be instrumental in providing new markets.

An environmental technology corporation, Global Inner-Harbor Remediation, Incorporated, is developing new approaches that could not only prove to be highly effective in dealing with the Gowanus Canal, but could be a technology that America could export.

Much of the property on both sides of the canal is underutilized and abandoned dumping grounds. The possibilities of contamination of many of the sites and the secretion of gas and oils from abandoned automobiles and trucks on property adjacent to the canal need to be addressed.

Significant opportunities for new investment in the area have been lost in recent years because of the problem of possible site contamination. The existing state of derelict land is what helps isolate the redeveloping areas from the areas that continue to suffer. Being able to overcome that problem of contamination or otherwise blighted sites could make a real contribution to the reweaving of the fabric of South Brooklyn.

There is a vibrant demand for housing in these communities. This demand took the form of the New York City Housing Partnership's interest to develop a desperately needed affordable housing project on a 6½-acre site alongside the canal. This area, known as Public Place Site, was to have been developed as the community saw fit, had it not been for the cloud of contamination on that site. The Gowanus Canal CDC has effected the necessary borings and soil analysis at a cost of \$150,000.

As we can best determine, the Public Place Site was taken off the contaminated list but it was suggested that the site might be put back on the list if Federal guidelines changed. This has paralyzed the possibilities of any development coming onto this site.

Southwest of the canal is an area called Red Hook, which is among the poorest communities in the Nation. Red Hook is geographically isolated by water on three sides, and an elevated highway. Red Hook's isolation from the rest of the city may have been less critical in the decades when the community was sustained by its own waterfront industrial economy.

The crime and drug problems that plague the Nation's first Federal housing project were tragically manifested in December 1992 by the killing of public school principal Patrick Daly.

The impact of the highway and the post-industrial shift in the urban economy have contributed to the social and economic isolation of low-income areas and other parts of South Brooklyn.

Making that derelict land reusable is part of what is needed to get the isolated communities of South Brooklyn back together again. The process of rehabilitation and redevelopment can contribute to overcoming the problems of drugs and isolation in the poor communities of Red Hook to the south, and Gowanus Houses to the immediate north.

To the east and west of the canal are brownstone revival areas. There are enough resources in the indigenous community that, if interlocked properly, has real opportunity to stabilize and integrate the area. The stable communities of Park Slope on the east and Carroll Gardens and Cobble Hill on the west have already demonstrated a tremendous interest on the part of the private sector to undertake development.

The Gowanus Canal CDC was instrumental in the conversion of several obsolete multistory industrial buildings to residential use. But we should not go on this way, one parcel at a time. What the area cries for is an overall plan, a possible urban renewal designation which would be a logical way to assemble necessary parcels.

We feel sure of the success of such an effort by virtue of our past experience working with the stable communities, Park Slope on the east, and Cobble Hill-Carroll Gardens west, the low-income community, Red Hook, on the south, and Gowanus-Wycoff Gardens to the north.

This would be a great social experiment, bringing the people into an integrated social and economic development opportunity. Some 250,000 people are within walking distance of the Gowanus Canal. Two subway lines servicing the east-west boundaries of the canal puts the area within a 12-minute subway ride to Manhattan.

The benefits to the community of a national demonstration project are to have a homegrown, technically trained work force

that is employed in the clean-up and is available to industry after the clean-up.

Through NEPETE, a Northeast Partnership for Environmental and Technical Education, and branch of the national PETE (Partnership for Environmental Technology Education) coalition which is sponsored by the Department of Energy and the Department of Defense, NEWTREACK (Northeast Waste Technology Research, Education, and Applications Center) is the Rensselaer-Brookhaven lab-industry partnership involved in the environmental programs like education, remediation, and applied technology, we have a partnership in place to carry out the technical, educational, and training aspects of the clean-up. The economic and social benefits go hand in hand with creating a work force that industry can use.

Gowanus Canal CDC already has mechanisms in place and does not have to invent them just to satisfy legislation. Gowanus Canal CDC recognizes that the problem is multidisciplinary and that the solution requires a coordinated effort among and between several Government agencies, educational and research institutions, and industry.

The proposed legislation can take advantage of the preexisting entities. A Federal investment could draw additional commitments from New York State and New York City and one of our major private sponsors, Brooklyn Union Gas.

Thank you for the opportunity to appear before you today. And I'd like to add that I'm very happy that Senator D'Amato is here because it wasn't too long ago that he helped us dedicate a senior citizens' housing within spitting distance of that canal, so I know he's familiar with the area. Thank you.

The CHAIRMAN. Thank you very much.

Our last witness this morning is Sandy McCollum, who is the Director of Economic Development for South East Community Organization in Baltimore.

I want to say that Senator Sarbanes is very interested in your testimony. He's between committees this morning, and hopes to be here, but we'd like to hear from you now.

Senator MOSELEY-BRAUN. Mr. Chairman?

The CHAIRMAN. Yes?

Senator MOSELEY-BRAUN. Mr. Chairman, before Ms. McCollum starts, I really hate to leave on the only lady witness we've had, because I really wanted to hear your testimony, as well as read it. But I have a previous commitment. I have a committee hearing at this time, and so I would ask to be excused, but also to say again, in closing, I really am delighted that these witnesses have come to talk about this very important issue.

Our country is the only nation, industrialized nation in the world in which "inner city" means slum. Most nations recognize the value of preserving their inner cities. And I'm delighted there is a real awakening awareness in our country of the value, the economies, if you will, of going back, reaching back to preserve, revitalize, and renovate these urban areas.

Because there are savings, there is potential for job creation, and we should reclaim our urban areas, which will benefit all Americans, whether they live in the urban area or not. And so, again, I want to underscore my commitment to this area, and I look for-

ward to working with you, Mr. Chairman and the other cosponsors of the legislation, and the witnesses on behalf of community economic redevelopment.

Thank you.

The CHAIRMAN. Thank you very much.

Senator DOMENICI. Mr. Chairman.

The CHAIRMAN. Senator Domenici.

Senator DOMENICI. I wonder if you might indulge me for 2 minutes?

The CHAIRMAN. Of course.

Senator DOMENICI. I'm very apologetic, ma'am. Frankly, I didn't even intend to be here for very long. I came over to vote, but actually I'm intrigued enough to have some questions and some concern.

I want to share with you, Mr. Chairman, and members of this committee, that if the plight of the inner-city with reference to polluted properties can be used in a way that would force Congress to take a look at the Superfund and its absolutely ludicrous liability schemes, it would serve a major purpose.

Senator DODD. Here, here.

Senator DOMENICI. Let me tell you, there is no way to take these sites that have any kind of pollutant liability for toxicity, and develop them under the laws today, unless we change the law with reference to what is clean enough. We have such stringent laws regarding what is clean enough that technologies aren't even available to clean the sites.

So what are we engaged in principally? We're engaged in getting a bunch of bulldozers and a bunch of trucks to move land.

Senator DODD. If the Senator would yield?

I mentioned the Waterbury example to the Chairman, Century Brass. That's 100 acres that have been offered to anybody. I'll use this forum here. Anybody that wants 100 acres in downtown Waterbury can have it for nothing.

Senator DOMENICI. And nobody will take it.

Senator DODD. Have it for nothing. It's zero. You can own 100 acres in Connecticut for nothing, in Waterbury, Connecticut, provided you're willing to assume the cost of cleaning it up and the liability. And you don't get a taker, not a single taker on that.

Senator DOMENICI. Well, I just want to say that I really appreciate the fact that it is growing, the knowledge is growing that everything's interrelated. The Superfund has many situations that you all must have confronted already, where there is no escape from permanent liability because you can't get a release from anyone.

You hire a company and spend \$50 million cleaning this up. And you know what they're saying? When I'm through doing what you asked me to do precisely, you can investigate it, and when I'm through, will you give me a release that I'm not liable anymore. I was just called in to clean it.

You can't even get that in this misdirected Fund. Imagine. There's no technology that is precise enough to be relied upon? In fact, this brings it into focus. A little bit, Mr. Chairman, and if the inner city and the problem focuses it on us, it's good. It also raises

in the issue of bankers' vicarious liability for lending money on a polluted site.

A bank won't lend \$5 million now, because they have to go through cleaning it up first, or they're going to be liable for the next 50 years for having loaned money on it.

There is a very compelling case for addressing lender liability. I want to say, as a former mayor of a little city, Albuquerque, I really sympathize with the situations you've got in the bigger cities. I really hope we can find a way to help.

My last observation is, and I don't know what you all will think about it, but perhaps, before you're finished, you might just address it.

I think a new approach should be built around the quickest way to get the land into the hands of the private sector for development. I think if we have a scheme that vests it in the State or the city or the county, we're going to be right back in the muddle because the marketplace is not going to be the clearinghouse, and we're going to have to get more public involvement.

I hope part of the scheme is to get land back on the market, Mr. Chairman, where that acreage is subject to some bids. And not that we want to own it, the city doesn't want to own it.

Senator DODD. Yes, they don't want to own it, they don't want to own it. They want it on the tax rolls.

The CHAIRMAN. That's their big thing, taxes. They want private owners and taxes.

Senator DOMENICI. And my last point is that I know you can't limit the scope of your legislation. I'm not sufficiently familiar to be giving you advice. I don't know enough about it. But it seems to me that, on the one hand, if you make it too big, you're going to run into some real problems up here of getting it through. On the other hand, if you make it so narrow that we're only talking about polluted sites, because I understand you use public welfare, public health, public safety, but if it's just polluted sites, you might have a better shot of getting it through. Would that be too narrow for development?

I don't know the answer to that one. But from my standpoint, even though I clearly am out of my parochial domain, I think, I'm willing to listen and work with you to see if I can be helpful. I think we ought to call in our environmental experts from other committees and tell them the realities about the clean-up situation under current law.

The CHAIRMAN. And I want to invite, I know at least one of you wants to respond to that last point he's raised, which I think is an important point and deserves a comment from the witnesses.

Senator DODD. I was just going to point out, we have in the audience the president of a company called West Hartford Connecticut Environmental Warranty. What they do is site assessments and insurance policies that pay for the value of the property if environmental contamination is discovered. Charles Perry is in the audience, Mr. Chairman.

I'd just note for the record. You might want to afterwards ask him to comment, because this is a company that's in the business, on how successful they can be, and how expensive they can be.

Thank you, Mr. Chairman.

The CHAIRMAN. Yes, by all means. And on that point you wanted to make a comment?

Mr. SCOTTO. What I was going to say, Senator Domenici, that you refer to sites that are very heavily polluted. You're absolutely right. But there are many other sites that are not that polluted—

Senator DOMENICI. Very good point.

Mr. SCOTTO.—that are adjacent to sites that are or have a degree of pollution that could and might be handled by a combination of State, city, and municipal agencies and the private sector that would be very interested.

We have a very good working relationship with Brooklyn Union Gas, Con Edison, and Pfizer. Those companies are there in Brooklyn, very committed to redevelopment. I think this legislation would be extremely helpful. As is, it's a very positive step forward.

The CHAIRMAN. So in other words, your view would be that, in a sense, this doesn't solve all the problems, but it tackles a class of problems that we really can get at, and you get this economic redevelopment.

I take it that the private utility company would much rather have an abandoned site put back into use. That helps them, that helps everybody else in the rate-paying base for the utility.

Mr. SCOTTO. Absolutely.

The CHAIRMAN. So, I mean, everybody comes out ahead on that deal, plus you get the jobs to boot.

Senator BENNETT. Mr. Chairman.

The CHAIRMAN. Yes, Senator Bennett.

OPENING COMMENTS OF SENATOR ROBERT F. BENNETT

Senator BENNETT. I'm interested in your comment, and I must give way to sharing an example, as Senator Dodd has done.

You talk about 100 acres in Waterbury, Connecticut. If you go to the busiest intersection in Salt Lake City, which means it is the busiest intersection in the State of Utah, presumably therefore, from an industrial or retail point of view, the prime piece of property in the entire State. It's not serious pollution, it isn't even pollution to stand up under EPA investigation as being polluted at all. But the owners of the site cannot get from the EPA a hold-harmless letter.

What they have gotten from the EPA, after 4 years of fooling around with it, is a letter that says:

We contemplate no action at this time. However, . . . " in the classic bureaucratic language, . . . we reserve the right to re-enter the site at some future time in case pollution should reoccur.

And like your 100 acres in Connecticut, they can't give it away. The county called the owners and said, we're going to seize your land for failure to pay back taxes, and the owner said, how quickly can you do that?

[Laughter.]

Please let us facilitate that.

The CHAIRMAN. Can you come in the next hour?

Senator BENNETT. Yes, can you do that immediately.

The county said, well, wait a minute. Nobody's ever responded that way to a condemnation threat before. And then they looked at the letter and said, no, don't want anything to do with it.

The bank looked at the property that they had the lien on to foreclose, and refused to foreclose. Even though the EPA investigators had finally, after 4 years, been to the site, conducted their investigation, and having come to the conclusion that there was no pollution, not lesser pollution that could be cleared up, but no pollution.

But having put it on Superfund at the beginning, they would not bureaucratically ever take it off, by saying, we reserve the right to re-enter the site at some future point.

I happen to know about it pretty definitely because I'm one of the shareholders of the company that lost everything when the property went on the Superfund site in the first place.

It became an issue in my campaign, as my opponent kept saying, why don't you clean it up. You're running for the Senate. What are you going to do about it. Why don't you clean up this blight. And the answer is, I'll go to Washington and abolish the EPA, if necessary, that kind of a flippant answer, and obviously not the right one.

But that is my concern, as I hear these things. I'm obviously in favor of this legislation. I'd like to review the language particularly, before going on it as a cosponsor. But assuming that the language is what all this testimony says it is, I'd like to become a cosponsor.

But I echo Senator Domenici's comments, Mr. Chairman, that this may not be where the problem is. The problem may be in dealing with the Superfund legislation and the absolute determination that there is no fault liability. There is fault for everyone who even looks at the property at any point.

Consequently, everybody's turning their backs on it. And I think that's one of the major reasons we have this kind of problem in our inner cities.

The CHAIRMAN. Well if I may say that I think these are very important illustrations. And this is a problem with many facets to it.

We've drafted this legislation to reach the part of the problem that we can within the scope of this committee. But you're quite right. There are related problems of precisely the kind that you describe that fall into the jurisdiction of other committees which need to be dealt with in a different way, because we're jammed up.

And, you know, when you look at our trade deficit and you look at a lot of other things in terms of how we're doing and underperforming on the economic side, and you see these sites in critical locations that can be reused, need to be reused, you see an impaired tax base, you see people frustrated and angry because there aren't enough jobs to go around, and jobs could come to these sites, if they could get economic activity restored to these sites.

We've gone after the part that we think we can get at directly. But I would urge you to take a look at it, and I'd like to consider your suggestions. And if you see something that you think, within the range of what we can reach directly, we should alter or modify, I'm open to that, because this ought to be a nonpartisan effort, a bipartisan effort, because this is an issue of how do we solve a problem that's out there and can't solve itself right now. In fact, as it piles up, you get a downward spiral going, and so if nobody intervenes, we're left with the worst possible outcome.

So what we're trying to do is interdict this problem, and at least regarding the part we can get at, see if we can't get an upward spiral, rather than a downward spiral.

Senator BENNETT. Well, the reaction is, as you say, or many of the witnesses have said, and once again, using myself as an example, the company that I headed simply went out, bought ourselves some land far away from the area, a clean piece of land that nobody'd ever done anything on before, and we built our facilities out there, and we took the jobs out there. And there are now about a thousand jobs in Salt Lake in a former lake bottom, which we have landscaped and built up. And it looks wonderful.

But we could just as easily have stayed in the inner city if we hadn't had the absurdity of the regulations surrounding Superfund.

I don't want to intrude further on Ms. McCollum's time.

The CHAIRMAN. She's been very patient.

Senator BENNETT. I would just say, Mr. Chairman, maybe we could use the anomaly available in the Senate rules to offer a non-germane amendment on the floor when this gets up there, and do something about some of these other areas.

The CHAIRMAN. We've tried that. You know, we've aimed at that problem before, and this committee has had a great concern about it with respect to lender liability. Of course, then that starts to bridge over into municipal liability. I mean they are kind of kissing cousins. And so then the question is, how do you do that?

And then you start to move into the jurisdictions of other committees, and then when we get to the floor, you're quite right. I mean, amendments could come in that are outside the direct legislative scope of this committee. And we've tried to take this as far as we can.

This is an area where I think we can come in and take a piece of the problem, and we're getting good testimony not just from these witnesses, but from across the country. But there's a part of this problem that can be dealt with, and that doesn't solve it all, and I'm open to solving the rest of it.

But this is very helpful. I mean, this is the kind of record I think we need to decide what kind of room we have to move here.

Senator DODD. Mr. Chairman, I want to put into the record a list of some other sites in my State that could be helped by this bill. I do not have a complete list of the many sites in my State that could be helped, but this list provides some additional examples.

BRIDGEPORT

The former Bryant Electric facility is a multi-story industrial building in the heart of Bridgeport. The present owner has initiated preliminary environmental investigations, however extensive investigation and possibly remediation is required before the site can become a viable economic redevelopment site.

HARTFORD

Royal Business Machines is an old industrial facility which was severely damaged by fire in 1992. The city of Hartford has actively sought funds to demolish the existing buildings and remediate environmental problems to encourage the revitalization and redevelopment of the property.

MERIDEN

The Meriden Rolling Mills facility is a historic industrial site located in Meriden, a former industrial mainstay of Connecticut's economy. Multiple projects have been proposed for the 12 acres parcel, but redevelopment has been restrained by outstanding environmental issues at the site.

NEW BRITAIN

The former IAS-Turning Machines facility is a 92 acre parcel located in the city of New Britain. The facility is presently vacant and offers approximately 475,000 square feet of manufacturing space. The environmental issues at the site have been a significant obstacle in the redevelopment of the property.

WATERBURY

The former Century Brass facility in Waterbury was once the mainstay of the city's economy. The 90 acre site has remained predominantly vacant since Century Brass ceased operations in the 1980's. The city of Waterbury is eager to redevelop the site and revitalize the city. A major developer is presently interested in building a regional shopping mall on the property. However, the cost of the environmental clean-up will probably exceed 10 million dollars.

The CHAIRMAN. Very good. They'll be made part of the record.
Senator Domenici.

Senator DOMENICI. Mr. Chairman, I want to make one other suggestion. One of the witnesses spoke of a public/private partnership with Argonne National Laboratory.

Frankly, Mr. Chairman, it's a little known fact that the Department of Energy's laboratories—Argonne, Livermore, and Oak Ridge—have an enormous capability in waste minimization and the budding technology of clean-up for toxic wastes.

I would think it might be good for us to invite the Department of Energy's experts to become a partner in developing a strategy to best implement a clean-up.

Let me assure you, we're not going to be cleaning up these sites in 15 years the way we are today. If we keep the liability scheme like it is we may not ever clean sites up.

Senator DODD. Presently, the average time to clean up a Superfund site in 12 years. That's how much time it takes.

If the amount of money we're spending in other areas had been dedicated to the actual clean-up, we would have taken a lot of these sites off the list a lot sooner and with less hardship. But that's the goal. I mean, we're missing an opportunity.

Senator DOMENICI. I also think, Senator Dodd, that there is a way to use the evolution of science to make this much easier, much quicker.

Let me just tell you, the art of cleaning up underground tank seepage has just changed dramatically because a small contractor got the idea that instead of moving so much earth around, why don't we pump into the ground oxygen that percolates up and carries with it the pollutant, a very simple thing. And it's working and everybody's using it. It reduced the cost of clean-up by about one-tenth.

That's going to happen over and over with real technology, not just simple ones. I would urge that we try to marry the technological base of some of our national labs with the problems we've got, because I think they'd love to be part of trying to help us solve it.

Thank you.

The CHAIRMAN. Well, and I think too, you know, just if we're going through this defense conversion, and we're kind of moving out of some areas. And we've got all this expertise, we've got all these talented people, and rather than just sort of throw them out with resumes into a soft job market here's a way to kind of graft

them right into the economic system, so we can get this private sector humming, get some job creation.

Ms. McCollum, you've been very patient, and we've saved the best to the last, I'm sure. So we'd like to hear from you now.

STATEMENT OF SANDY MCCOLLUM, DIRECTOR OF ECONOMIC DEVELOPMENT FOR SOUTHEAST COMMUNITY ORGANIZATION, BALTIMORE, MD

Ms. MCCOLLUM. Chairman Riegle, Senator D'Amato and distinguished members of the committee, thank you for the opportunity to appear before you today.

I speak to you today, not only as the director of Economic Development for Southeast Community Organization, but also as one who has spent numerous years working toward the stabilization and revitalization of many of our aging commercial and industrial communities of Southeast Baltimore.

Southeast Baltimore has its economic roots embedded deeply in heavy industry. Firms such as Bethlehem Steel Corporation's Sparrows Point Plant, and the Broening Highway plant of General Motors Corporation still function in this capacity. However, with the loss of such firms as Western Electric and American Smelting and Refining Company, Esskay Meat Products, a subsidiary of Smithfield, accompanied by the downsizing of firms such as Eastern Stainless Steel and Armco Steel, this area has been impacted by overall changes occurring at both international and national levels.

Stability in the manufacturing sector has declined. Companies often find that relocation is more desirable than renovation, and automation is more cost-effective by decreasing employee levels.

Even with the problem of some employment losses, the area is still Baltimore City's largest and most concentrated industrial area. Its importance is reflected by both the number of people employed here, and in the amount of tax revenue generated. Estimates indicate that approximately 8,600 people work in the Canton Industrial area alone, with other scattered sites throughout the Southeast communities.

Continuing decline in this area could seriously jeopardize Southeast's standing as a leader of industry. During the course of 1980 through 1987 alone, 48 percent of the total jobs of the industrial area were lost. The closing of the Western Electric Plant eliminated 6,000 jobs at one time.

The loss of jobs is only a part of this problem. There's also the loss of vast amounts of revenues. Only vacant sites remain where once productive industry provided monies for Southeast Baltimore.

The potential benefits to the community and the economy, through legislation, are far-reaching. This could begin to stimulate the economic activity within the communities that now stand dormant.

Increases in local tax revenues, the conservation of capital resources, and the employment opportunities would stand to benefit us all, and job training programs to equip our work force and make it second to none.

With the redevelopment of now-vacant industrial sites and the employment opportunities that would arise, the citizens of our area would directly benefit through an increase in per capita income.

Buying power would be increased, homeownership would once again return to our communities, along with a rise in the population as people return to the areas of their employment.

Southeast Baltimore has a population of 78,000 people, a substantial loss in population from years gone by. Many have been lost to other jurisdictions as they follow their employers or search out a job. According to the 1990 census, 23 percent of the Southeast residents have an income below the Federal poverty line, compared to 22 percent in 1980. Redevelopment and employment opportunities are not the only answer, but it's a good place to start.

With such an emphasis on the environment, many of the contaminated properties are overlooked for a clean location, thus leaving many of our once viable sites and their adjacent properties to sit until someone will take a chance.

The State of Maryland is currently considering a voluntary clean-up program to aid in the funding of administrative expenses of State staff in reviewing and implementing such programs. The State has also exercised discretion in entering into suit cases against purchasers of contaminated sites, where it was the prior owner, and not the purchaser, who was responsible for the condition.

Maryland has also occasionally extended credit to site purchasers where part of the loan funds were used for clean-up. These initial programs are a step in the right direction, making these abandoned sites more acceptable for redevelopment and less risky. With initiatives such as these, accompanied by legislation, the potential for redevelopment of our abandoned industrial sites becomes more real.

It is all too apparent what these idle sites are costing this Nation with each passing day: infrastructures that were built to service the industrial regions, not to mention sewage, utilities, and the list goes on. However, the cost doesn't stop. Maintenance continues, but at whose expense?

Unfortunately, there are no quick fixes to a problem that's been growing over the years, but there are steps in the right direction. Senate bill 299 is one of them. Cooperation between the public and private sectors is another.

Communities need to get involved and urge their public officials to begin to begin taking the initiative toward remediation. Southeast Development Incorporated, along with several other local community-based groups, some public officials and staff, have begun this process.

By identifying problematic areas and addressing each individually, with research and recommendations, the Southeast plan will come together in the fall of this year.

One specific agenda item has been the industrial and poorer areas of Southeast Baltimore. Vast amounts of vacant land sites and underutilized properties have been identified. For redevelopment of these sites there is opportunity, opportunities such as combining several parcels and developing an industrial park.

Seeing how the city-owned Holabird Industrial Park has been such a success, more businesses are interested in locating in our area.

Opportunity. The opportunities are there. However, what we need now are the incentives, accessibility to once taboo sites and

the availability to fund these undertakings. Senate bill 299 may be the beginning of a resurgence of development in our industrial areas, and a brighter future for many of our communities.

Thank you.

The CHAIRMAN. Thank you very much.

Let me just pose a couple of questions, then I'll go to my colleagues for the questions that they would like to raise.

I thought, Mr. Wysocki, that the conversation that you had with President Clinton yesterday on this approach, I think, is very helpful insight as to the fact that S. 299 is an attractive concept, and he apparently found it so in your conversation.

I assume the answer to the following question is yes, but are you all of the view that many nonprofit community development corporations today do have the kind of capacity to carry out these types of redevelopment projects, if we can proceed along the lines that S. 299 contemplates? Is that correct, Mr. Wysocki?

Mr. WYSOCKI. Yes. In my testimony, I only gave two examples, because I had the attachment of press stories to give you the fuller story. But we have other members.

Jane Addams Resource Corporation, they're taking on their second industrial building—in this case, it's not abandoned land, but it was abandoned property that they are rehabilitating.

There's also another one of our members, Greater Southwest Development, that has plans for using vacant rail yards for a new industrial park. They've already done a shopping center, a senior housing project in their comprehensive plans for their communities.

Another group on the city's southeast side, heavily hit by the decline in the steel industry, had plans for a resource recovery facility that I think is still viable. That particular site is owned by EDA, so it's not quite, it's federally owned, so it doesn't quite fit this current legislation.

That capacity exists, and one of the points that I made to President Clinton yesterday is, given the demographic targeting that are going to be involved in these empowerment zones or enterprise neighborhoods, you could guess that we're also looking at communities in the country that are faced with this kind of abandoned land situation.

So the point I was making to him was to know ahead of time that you're going to be running into this issue of environmental remediation. That needs to be part of the puzzle.

The CHAIRMAN. Greg, let me ask you. In terms of cleaning up these former industrial and commercial sites and getting them recycled, what are some of the uses that are appropriate and some of the situations you've seen? We've just had some examples, but in your experience, you know, what kind of range of options are we looking at here, if we can just get these facilities and this land back in use?

Mr. PITONIAK. Sure. Well, first of all, in some respects, the uses are endless. I mean, if they were manufacturing to begin with, they have obviously potential, for example, to be manufacturing again.

But certainly one evolution that's occurred across the country, and indeed in our State, is that you had heavy manufacturing and industrial along attractive waterfront locations, waterfront and lake front and so on, so that a conversion to commercial, retail, or

residential is a very real and attractive possibility, if we can overcome the obstacles.

The CHAIRMAN. It's a high value use, too, is it not?

Mr. PITONIAK. Absolutely, a high value use. It creates population growth, which then spurs the spinoff economic development and so on. And so I think that would be one of the most beneficial aspects of the use.

The CHAIRMAN. Anybody else want to contribute on that? Yes?

Mr. WYSOCKI. I'd just like to note, in looking at developing from scratch on some of this abandoned land, that you also have the opportunity, when you build these new industrial parks, to make it a mixed use facility as well, so that you're putting on site training centers, day care facilities. So you're meeting all of the demands of the work force right there on site. And that kind of innovation, I think, is very critical to our urban areas.

The CHAIRMAN. Let me say how much I appreciate the testimony this morning. I'm about to yield to my colleagues. I've got to go down and participate in a meeting with the First Lady, Hillary Rodham Clinton, on the health care issue at noon and so I must leave to do that. I'm the Chairman of the Subcommittee on Health, of the Finance Committee.

I'm going to call on Senator Bennett, first, and then Senator Dodd.

I want to say, with respect to the two nominations that we've been voting on today, the vote on Mr. Retsinas was unanimous, 19 ayes, 0 nays. The vote on Ms. Achtenberg's nomination was 14 ayes, 3 nays, and 1 not voting. So they'll both be reported favorably to the Senate as a whole with those vote totals from the committee.

You wanted to add one other thing, then I'm going to go to Senator Bennett.

Mr. PITONIAK. Thank you, Senator.

I just wanted to indicate that I think one of the very positive aspects of the legislation is that it's focused. It's not attempting to cure all the environmental problems, including administrative and policy, that we're confronting in this country.

I heard the discussion of some of the other Senators about the Superfund and the EPA and so on. And listen, I absolutely am frustrated myself in my own State with very similar case studies.

But I think one of the beauties of this legislation is it's a tool to deal with some of the problems, specific problems right now, and I guess it's a word of caution to say, I'd hate to see the bill bogged down with broader policy issues or environmental issues. And instead, let it move forward as a tool where states and local governments have said, we have a project in mind. We know we can remediate the contamination. We want to move forward, but we need some financial support. I think this legislation provides that kind of impetus, and if we can keep it focused on that, maybe it has greater prospects of passing.

The CHAIRMAN. Well, you know, that raises another interesting point. And that is that if we can demonstrate, by means of this effort, that this works and this is a quick way to get an economic return and get private sector strength growing again, and taking these properties off the sidelines and getting them back functioning

again, it may help us break the logjam in committees outside our jurisdiction.

In other words, if we can show a working model here, it gets pretty hard for somebody else to throw something up to say, well we can't solve this problem in some other situation that's comparable in many ways.

I think maybe we can engineer something of a breakthrough of process and technique here, where everybody comes out ahead, and maybe that'll help lever a breakthrough in areas that we can't reach as directly.

So, Senator Bennett, let me call on you. And Senator Dodd has consented to finish the hearing.

I want to thank all of you again, and we appreciate your testimony very much.

Senator DODD. Mr. Chairman, would you mind if we invited Mr. Perry to join the witness table?

The CHAIRMAN. Sure.

Mr. PITONIAK. I have to excuse myself.

The CHAIRMAN. He can take your seat. Thank you again for coming.

Senator DODD. I would just introduce Mr. Perry. He's the President of a company called Environmental Warranty in Connecticut. They insure against the very thing we've been talking about. I thought it might be interesting from someone who has experience in that industry, to talk about some of the problems.

But we'll just go to the questions.

Senator Bennett, why don't you proceed with your questions and then I'll have some for our witnesses.

Senator BENNETT. Thank you, Mr. Chairman.

I too am going to have to slip away, but I'm delighted that Mr. Perry is joining the witnesses, because this is the heart of the problem.

And Mr. Wysocki, you, in your statement, summarized part of the frustration that surrounds this whole circumstance. Even if Trendler Metal Products cleans up the site, remains within the law and has the contaminated dirt hauled away, it retains ownership of the dirt.

Mr. WYSOCKI. And let me just note, Senator, that this is dirt that they were not responsible for contaminating in the first place.

Senator BENNETT. You are using common sense here, and that's a rare commodity when you're dealing with these kinds of issues.

Back to the example that Senator Dodd cites, and that I cited—many of these sites became contaminated because the people who used them abided by the law. That is, the practices that they were following at the time were perfectly legal when they were being followed.

Then the law got changed and liability then went to anyone who had anything to do with the property, whether it's a lender who lent money on it, strictly abiding by the law, someone who bought it after, like Trendler here in this circumstance, who had nothing whatever to do with the pollution.

The legal stream says, we don't care. If you have anything to do with this property, you have joint and several liability. Then we go to the deep pockets, which is why counties won't condemn and take

it over, banks won't foreclose, people won't buy and clean up and use, because they will be tainted by it. And while I agree with the request that Mr. Pitoniak made that we move ahead on this legislation, I think we can't ignore this overriding legal maze that we're in, and we need to try to do as much as we can.

The only comment I would make, and I'd be happy to hear what Mr. Perry might have to say about this, is that there are ways of cleaning this up. There are ways of putting it behind us.

We have an industry in Utah where dirt is brought in from other places. I don't know that it comes from as far away as Chicago, but it's dealt with. It's dealt with in the west desert. And let me tell you, if you want an area where there doesn't seem to be anything else to do, the west desert in Utah is ideally suited for dealing with this kind of circumstance. And there are industries that do it responsibly, they do it in an environmentally clean fashion.

We need to recognize that there must be an end to this liability, or there will never be an end to the problem. And, Mr. Perry, if you're in that business, I'd be pleased to hear what your comments might be.

STATEMENT OF CHARLES PERRY, PRESIDENT, ENVIRONMENTAL WARRANTY

Mr. PERRY. Thank you, Senator.

I've been in this business, which is a very small business, for several years now.

My background is as a lender, so I initially got into this business, because I saw first hand, having been in the banking business for almost 20 years, as to what some of the problems were.

Lenders are just plain afraid of making a new loan or renewing a loan on a piece of property that may be contaminated. Many of the properties that we deal with lenders on are not contaminated, but there's a perception, as you've indicated earlier, that there is. Much of the contamination is light. There's more made of it than there really is.

The sectors of the business community that we're working with are lenders, municipalities, and also one that hasn't been mentioned today, which is trustees. And I don't know if everyone is aware of the fact that there have been cases recently decided that trustees, that may be a trust department or a trust officer working in a bank, that may be managing a piece of property for a trust, can be held liable for contamination to a piece of property.

There's a case in Arizona right now which is a near disaster for a trust department where there is contamination on a piece of property that is causing havoc now in the banking industry on the trust side, as well.

What we've tried to do to make banks more comfortable lenders in general—not only banks, but insurance companies as well—more comfortable along with State municipal agencies, such as housing departments—we've been working with the Department of Housing in the State of Connecticut—is to combine the use of a very high class environmental site assessment with the use of an insurance vehicle which is really what I've been involved in developing for the last 2 years, which is a very inexpensive form of insurance coverage that looks and works a little bit like title insurance. Which,

for the very first time now, guarantees a lender that if there is contamination on a property, that it has been identified and can be cleaned up, and that there is nothing more beyond that that they can be held responsible for.

A lender likes the sound of the word, guarantee; they like the sound of being able to transfer risk.

Up until now, all they've been able to do is their due diligence to the best of their ability, and worry about someone rewording or reworking a statute to get around that. But when you accomplish risk transfer, by putting a piece of insurance in place, the lender now can say that I not only have done my due diligence, but I've gotten rid of the risk.

So the program that we're attempting to bring to the marketplace in a pilot, and we're focusing on a number of lending institutions in the Northeast, but properties that we've looked at so far, and coverage that we're in the process of writing to date is on properties across the United States.

It affords a lender an opportunity to transfer the risk, which is a tremendous way of leveraging dollars, by the way. Because, as I say, the cost of the insurance coverage is not very much at all, compared to the cost of the clean-up.

Senator BENNETT. Well, I commend you for finding a market niche and filling it in the grand American tradition of free enterprise. And I may have a customer for you. Thank you very much. [Laughter.]

Mr. PERRY. Wonderful.

Senator DODD [Presiding]. Thank you very much, Senator. I'm going to submit two articles for the record that I thought were particularly worthwhile.

One is called "Connecticut Seeks Current Jobs," New York Times, and I'll read the lead paragraph. It says:

The bleak and vacant industrial landscape that stretches along the Shetucket River will never be featured on the Sierra Club Calendar. The rats are more likely to be seen than spotted owls, but in Connecticut, and a handful of other States, places like this represent the new environmental frontier.

And it goes on.

I grew up on the Shetucket River. It's in Norwich, Connecticut, where my great grandparents settled when they came to the United States. I know that river as well as I know any river, I suppose. I live on the Connecticut River today.

And this article goes on. It talks about this particular bill, and pilot program, and obviously what we're doing in Connecticut, as well. Another article, called "Transaction Grease Can Ease Liability."

Mr. Perry, this makes reference to your company so I thought that might be worthwhile to have for the record.

Senator DODD. Some of the best hearings that I've attended in the past have been when things have digressed a little bit. Earlier, Senator Domenici raised the issue of Superfund.

I realize this is getting beyond the jurisdiction of this committee. But I'd like to hear each of you just briefly comment on Superfund. I hear about it every time I go home from businesses and industries in the State. The insurance industry is very outspoken on it.

Their concern is that we take various groups off the table, so we have lenders off the table, and municipalities off.

It's a narrower and narrower group that's going to assume the lion's share of the responsibility.

We're just politically taking people off the table because we don't want to go back and look at our mayors in the face, and say, we're going to hold you accountable. So that's an easy group to take off the table. And lenders may be the second group to take off the table, because that's fairly easy to do, I suppose.

So I wonder if each of you might comment? I mean, all of you here work and care about the environment deeply, and the committee would benefit from your observations.

Ms. McCollum, why don't we start with you since we ended with you, just on your thoughts on this whole question of whether or not we ought to take a dramatically different view of Superfund legislation in light of the problems that have been articulated here today.

Ms. MCCOLLUM. Well, in order to do any type of development, we're going to have to have incentives, and obviously that would be a big incentive. Because, as it stands right now, people go elsewhere. That's plain and simple. I mean, they look at the property. When they see what's involved, they look at the liability, they go elsewhere. So that's going to have to be addressed.

Right now, Maryland is trying to address it on a local level as best as we possibly can. But there still are liabilities out there, and they understand that, and they're trying to address them as best they can. So from the Federal level, you know, there's going to have to be some form of legislation.

Senator DODD. Mr. Scotto?

Mr. SCOTTO. Yes. I'd like to reiterate what I've already said. There are sites which I think this legislation is right on target with, and there are other sites where the Superfund has to be involved beyond a shadow of a doubt, and whether it's a coalition of insurance companies that can come together to pick up that liability or not, technology has to be brought to bear on, in essence, what do you do with that dirt that was picked up that they continue to be responsible for. And it is a responsibility that I think is more than worthwhile to take very seriously. But it would seem to me that the other committees that the Senate has in place ought to be working too.

Senator DODD. Well, you run into a wall of hostility when you talk about changing Superfund. There's as much of a political problem here as a substantive one.

Mr. SCOTTO. One step at a time, then, Senator.

Senator DODD. Mr. Wysocki.

Mr. WYSOCKI. There's no doubt that there are these other issues in terms of municipal liability, lender liability. We run into that in terms of the city being willing to take title to transfer to a non-profit and asking the nonprofit to hold the city harmless.

I think there are some legal interpretations that would say that the city's just passing title, and therefore might be exempt.

The lender liability is a major issue. We had a particular industrial developer that our organization was working with. There are very few of these people who invest their own capital to go in and rehab these older buildings and lease them up. And he basically

was just looking to cash out to move on to do another building. He wasn't just looking to cash out for profit; he was going to take that capital and reinvest it in another building.

I actually think there's also an issue, with all due respect, to the environmental consulting business. There's also an issue of some self-policing out there. Because in this particular case, when you read the detailed phase one, you could come to the conclusion that there was no big problem here.

But, yet, that environmental company was giving this developer an unsolicited bid for phase two, and if you read the conclusion of the phase one, and you were a lender, as lenders were involved with this, you would come to the interpretation that you could not lend on any building in Chicago built before 1955.

I think there are issues here of clarifying for lenders. And we try to pursue the point with the lenders involved here that, you know, read the full report. This is no big deal. You're drawing the erroneous conclusion here, but it wasn't drawing an erroneous conclusion so much as being concerned about their lender liability. So I think there are these other issues.

But going back to points that were made earlier, and one of the reasons I ended my testimony emphasizing that there are projects waiting to be done, I think as the Chairman said, this can really demonstrate, this bill can demonstrate, it can put hard dollars out that will clean it up and move some of these projects forward, and at the same time, allow us to have the opportunity to forge these kinds of partnerships that were being referred to, with some of the new technology, and let us get some jobs going on, that I think will give you all in the Senate and in the Congress, the opportunity to look at these larger issues.

And so I think we need to start somewhere, and that's the first point that I think needs to happen with this bill.

Senator DODD. Before asking you, Mr. Parker, for comments, you know, coming again from Connecticut, as I do, that the insurance industry is a major employer in our State. And obviously today with discussions about health care reform, the insurance industry is a nice target. It's a pretty easy target to go after in 49 States. Even in Connecticut, people feel pretty free to do it politically.

But I just want you to know, as well, that there are a lot of conflicting issues that the insurance industry is asked to assume. And the industry is going to walk away from a lot of this stuff. They're not going to cover this stuff, with the exception of Mr. Perry, who sees the niche being carved out.

Mr. Parker, we come from a State with a lot of sites that need to be redeveloped.

Mr. PARKER. Yes, we do. From the perspective of an environmental agency, this is an issue I deal with every single day. And there's two levels of environmental liability. There's the State level, and there's the Federal level. And I think in Connecticut, we've effectively dealt with the liability issue at the State level. That is, in our own urban site pilot program and the expansion we hope to have this year, the State of Connecticut is taking the lead to do the studies ourselves, using our consultants, to do a thorough comprehensive evaluation and identify what the problems are on that site, and what, if any, remedial measures have to go forward.

The question that we get most often is one of, define the problem. We want to play with a full deck, and understand what that problem is, so we can gauge what that future liability might be. So the first step is to do the studies to define it. If we go through this clean-up program, and the State reviews it and approves it, and we review and approve and perhaps implement remedial measures, that gives the banks and private investors a high degree of confidence in what the State of Connecticut DEP has done. And they have indicated a willingness to go forward and invest money in a site.

We are working with the governor's office on just such a proposal in Bridgeport, Connecticut, in which investors would like to invest millions of dollars to do this. But they've asked the department, through our urban site program, to deal with this. And they feel that if we do the comprehensive studies, and draw and identify the environmental baseline, that they are willing to go forward with what I call a future environmental risk associated with what they might do on the site in the future, as long as we can fully define and characterize the historical problems that have been associated with 50, 60, 70, if not longer, years of industrial activity.

The difficult problem, however, with the liability issue is at the Federal level. And that's a very difficult issue to deal with, because it's more comprehensive. And my own experiences in dealing with U.S. EPA, you're not going to find anywhere there that's going to give anyone any sort of guarantee that there's not going to be future environmental liability for what happened in the past. I think the importance is to draw the line. What's past is past, and what's future is future.

Again, if that liability is defined, it goes a long way toward making people comfortable. And the product that Charlie Perry has to offer increases that level of comfort further still.

Senator DODD. That's a very good point. I presume you draw the distinction, when you say past is past, and future is future, in the case of the past, where there was just clear negligence or—

Mr. PARKER. Correct. In a lot of these sites, we're dealing with 30, 40 years of history. There have been spills, discharges, releases, in a lot of cases, before environmental laws were even on the books. And you're not going to go back and go after those particular parties, and in most instances, the current property owner may be a bank, a municipality, a real estate company, or an individual. Those people do not have the resources.

What we intend to do is use State money, and if this bill were to pass, Federal money to start that process and get a return on that investment in the future.

Senator DODD. It can even get more ridiculous than that. I mean, I don't want to get too anecdotal here, but there's a Connecticut company—I won't use their name here, but they are based in Hartford, Connecticut—that was dealing with some scrap metal, rare metal, a few years ago, a number of years ago, dealt with metals generally, and did not quite know how to deal with this one. So it got in touch with the EPA at the time, and said, what do you recommend we do with this. They recommended a site in Pennsylvania where, on that recommendation, they then sent the metal. The Pennsylvania company went belly up a few years ago, identified as

a Superfund site. They asked for companies that had sent any materials there to step forward.

This company admitted that they had, and are now faced with a serious lawsuit, even though they sent the material there on the recommendation of the EPA. They did not do it on their own. I mean, it gets carried to the absurd. They were one of the few companies, by the way, that stepped forward and admitted that they in fact had sent down materials.

Mr. PARKER. Senator, I would also point out that one of the things we do is carefully look at the sites that we're going to use State money to fund.

If we have a suspicion that that site might be eligible under the Federal program, we stay away from it to avoid those questions on liability, and stick to sites that have less contamination, that would not be eligible, and move forward with our State program.

Senator DODD. Mr. Perry, would you comment on this bill? I don't know if it's fair to ask you, whether you've had a chance to look at it. But you've heard, certainly, the discussion here today. And we're interested in your general comments on where you think we're headed with this legislation.

Mr. PERRY. I think the biggest issue is, or several issues are:

No. 1, I think it would be a shame to see this money appropriated, and then have another 80 to 80 plus percent of it go toward defense costs or litigation, as opposed to clean-up or effecting clean-up.

No. 2, I think the biggest question in front of everyone would be to see how much of this money could be leveraged, and how much could this money be leveraged by. In other words, how many dollars could we multiply this by for effective use.

Again, that second comment is not meant to be self-serving; it is because insurance does leverage the use of these kinds of funds by providing guarantees as opposed to absolute spending. But it also should be used as encouragement in, my guess is, in pilots, because I don't think with the kind of money that is probably to be appropriated, that you're going to clean up the world, but it would be a shame not to start.

My guess is that the best way to start would be to focus. There's nothing that breeds success like success. And if you can point to a certain number of properties, and Ed and I have worked on a number of those together in Connecticut, that you can get back into off the dole, onto the tax rolls again, creating jobs, and we're doing that.

It works. It does work.

Senator DODD. If I could, I'd like to have you maybe submit some ideas taking a look at this. It's the Chairman's bill, but I'm sure he'd second this request.

Mr. PERRY. I'd be glad to do that.

[The following material was subsequently submitted for the record.]

SUGGESTIONS FOR LEVERAGING FEDERAL APPROPRIATIONS AS A PART OF
 SENATE BILL 299—ABANDONED LAND REUSE ACT OF 1993—SUBMITTED BY
 CHARLES L. PERRY, JR., MAY 25, 1993; TO TESTIMONY GIVEN MAY 5, 1993

1. Focus program in a small number of State(s) sites in order to achieve a *beginning* sooner, rather than later, by tackling the whole country.

2. Do not take on the most difficult problems or problem areas where the chance for success is slim, or 5 to 10 years away. Achieve a goal now, not later, and use success to foster further success.

3. Mandate that no funds are to be used for administration and/or litigation so that "Superfund II" does not occur again with all funds going to staff and lawyers and *nothing* to clean-up.

4. The best thought as to "leveraging" the Federal dollars appropriated would be to use them in an indirect spending form such as a "guarantee," as opposed to outright spending, therefore, multiplying the effect of these dollars, times potentially 100 times:

- either for a loan for remediation; or
- if remediation was completed by the buyer, then insurance would be paid for by the program; or
- the cost of the remediation *and* insurance would be financed by Federal dollars; or
- if remediation were to be funded by the Government, the environmental assessment and the insurance would be necessary to be carried by the "owner", etc., etc., etc.

The point is that these dollars should be used as *encouragement* not to totally fund the social/environmental remediation, which wouldn't even put a dent in the national clean-up costs required.

Senator DODD. Because there's no question, obviously, that the idea here is to have the dollars go toward clean-up, not to encourage more litigation.

The President had that line in his State of the Union address when he said the purpose of Superfund was to clean up the sites, not to subsidize the legal profession. I think that got the biggest applause, as I recall, of any line he used that night, and there were many applause lines. In fact, I heard more comments from folks back home about that line than anything else the President said that night in his speech.

Mr. PERRY. If I could add a comment to the comment that you've just made.

One example which results certainly in business to us, as a business, but highlights one of the problems that's out there, and that is that we have clients that come to us to place insurance on pieces of property, to verify the fact that there is no risk or to transfer the risk, simply because the cost of the insurance is less than having an attorney draw up an indemnification letter to assure them that the risk is not there. It's shameful.

Senator DODD. Yes, it is. Well, this has been very very helpful.

Mr. Perry, we didn't mean to sandbag you here but sitting out in the audience, that's a danger when you come to these hearings, that you'll be called upon.

We thank all of our witnesses for your testimony this morning.

Again, the Chairman, as you know, had to leave, but there may be some additional questions we'd have for you from the committee, and I think you got a good indication from people like Senator Bennett and Senator Domenici, that there is a strong desire to develop a bipartisan piece of legislation.

While it may not eradicate all of the problems, there's a desire here to see us move far more intelligently and aggressively in these areas, and to get to the bottom line. And that is, how do you clean

up these sites? That's really what motivates all of us. So we thank you all for coming this morning.

The committee will stand adjourned until further call of the Chair.

[Whereupon, the committee was adjourned, subject to call of the chair.]

[Prepared statements, responses to written questions to witnesses, and additional material supplied for the record follow:]

TESTIMONY OF SENATOR JAMES M. JEFFORDS (R-VT)

MAY 5, 1993

Mr. Chairman, I appreciate the opportunity to testify this morning on S. 299, the "Abandoned Land Reuse Act," a bill that you, several of your Banking Committee colleagues, and I introduced early this session.

The purpose of S. 299 is to promote the remediation and reuse of abandoned manufacturing facilities. The premises underlying the bill are as follows:

First, substantial private and public capital has been invested in these sites already. Second, these sites have infrastructure—water, gas, utilities, rail sidings, and the like—already in place. Third, these sites—if left abandoned—may pose threats to human health and the environment due to contamination. Fourth, they certainly contribute to blight and the deterioration of surrounding communities. Fifth, it makes more sense to redevelop these so-called "brown field" sites than to encourage urban sprawl and the destruction of so-called "green field" sites—our agricultural lands and open spaces. And sixth, the redevelopment of these sites will offer important job, economic development, and tax base benefits to distressed local communities. S. 299 represents a sort of expanded "bottle bill" ethic, the principle that it is better to recycle and reuse than to abandon and discard.

S. 299 builds upon the pioneering work of the Northeast-Midwest Institute in exploring the extent of the problem and possible solutions. The problem certainly is concentrated in the Northeast-Midwest region, our Nation's industrial heartland. We have abandoned machine tool shops up and down Precision Valley in my State, Vermont. We have shuttered steel mills in Pennsylvania's Monongahela Valley. Empty automobile assembly facilities, metal-plating factories, and chemical plants dot Michigan and the rest of the Midwest.

Shifts in America's industrial base from predominantly heavy manufacturing to light manufacturing, dependency on "just-in-time" specialty production and distribution, and increasing reliance on highways, not waterways and railways, have rendered many of these manufacturing sites underutilized or even obsolete.

But the problem, while concentrated in our region, is truly national in scope. Southern towns have empty textile mills. Western towns have abandoned mining and ore processing facilities.

S. 299, which amends the Housing and Community Development Act of 1974, authorizes \$100 million annually for fiscal years 1994, 1995, and 1996 for a nationwide site remediation and reuse demonstration program. The bill authorizes the Secretary of Housing and Urban Development (HUD) to select sites for assistance on a State-by-State basis or to delegate site selection and related funding to a State's Governor where appropriate.

Federal grants can cover up to 75 percent of the cost of an approved site remediation and reuse plan. Grantees—general purpose local governments and non-profit community development organizations—are required to pay a minimum of 25 percent of the cost. Non-Federal third parties may help grantees satisfy this requirement through financial assistance or in-kind contributions.

The bill contains avoidance of windfall and grant recapture provisions. Federal facilities and National Priority List (NPL)—"Superfund"—sites are excluded. Criteria for site and plan selection include the following: the project must be economically viable; that is, benefits must exceed costs. The project must leverage significant non-Federal investment. The site must be located in areas of economic and social distress. The project must offer local job training and employment opportunities.

Several States are moving ahead with their own programs, which is to be commended and encouraged. But States, local governments, non-profits, and the private sector cannot tackle this problem without Federal assistance. Our bill takes the first step toward providing that assistance.

Mr. Chairman, abandoned manufacturing facilities represent an enormous waste of physical resources and capital. Their remediation poses a daunting challenge. Entities traditionally antagonistic toward one another will have to work together to meet the challenge. We need to address complicated liability concerns. We need to consider creative measures such as covenants not to sue, environmental receivership, environmental warranties, tax increment financing, standardized and expedited processes for voluntary clean-ups, and tiered clean-up standards. It will be difficult to achieve nationwide remediation and reuse, but the costs of not making the effort—in financial, physical, and human terms—are too great to bear.

PREPARED STATEMENT OF SENATOR ALFONSE M. D'AMATO

Mr. Chairman, I commend you for convening today's hearing to discuss the "Abandoned Land Reuse Act of 1993." I look forward to hearing from today's witnesses about their efforts to rehabilitate abandoned and underused sites as part of a community development program.

In particular, I am interested in hearing from one of my constituents, Mr. Scott about the Gowanus Canal Community Development Corporation's progress in cleaning up the canal.

The "Abandoned Land Reuse Act" raises the important issue of how to develop and rehabilitate properties that have been abandoned because they pose health or safety hazards. This bill highlights the fact that contaminated areas often surround abandoned properties and that developing the abandoned properties would have a positive economic effect on these communities.

Currently, the potential environmental hazards that may exist on a particular abandoned property have made it very difficult for community development groups to attract developers and lenders to rehabilitate the sites. This is another example of how our environmental laws have an unintended economic impact.

I am concerned that our environmental laws are exacerbating the credit crunch. Lenders are afraid to make loans to businesses that own property that may later prove to be contaminated. The lenders may face astronomical liability due to pollution that they did not cause or contribute to. *This situation doesn't help the economy and it doesn't help the environment.*

I plan to pursue legislation to remedy this problem of lender liability in the near future. Thank you, Mr. Chairman.

PREPARED STATEMENT OF SENATOR CAROL MOSELEY-BRAUN

Mr. Chairman, as an original co-sponsor of the Abandoned Land Reuse Act, I welcome the opportunity to hear from the distinguished panels of public officials and non-profit officials who are here today to offer their views on this legislation.

As I traveled across the State of Illinois campaigning for this job, I saw too many desolated areas that were once booming industrial centers—in many cases, the very "heart" of a city or neighborhood. The tragedy lies in the fact that when this economic foundation is gone, jobs are lost, and communities collapse.

Using a cost-effective development strategy, we must start to attack these contaminated areas where decent, usable public and private infrastructure is already in place. Based on current development incentives, capital and land resources flow to "greener" areas that require new extensions of water and sewer lines, roadways, and telecommunications. We need to create jobs where people live, rather than where corn lives.

I am very happy to see that this committee has chosen Ted Wysocki to testify on this important issue. As the Executive Director of the Chicago Association of the Neighborhood Development Organizations, otherwise known as CAN-DO, Ted has worked on some of Chicago's most innovative programs in retaining industries and revitalization. I hope he will share with us some of the Chicago success stories, and I look forward to his, and the other panel members' suggestions, on how this legislation can make abandoned lands prosper again.

Mr. Chairman, we all know that some of the most successful economic programs involve *Public/Private Partnerships*—a small amount of public funding can trigger private investment that creates jobs and restores communities. This legislation is a step in the right direction.

PREPARED STATEMENT OF SENATOR FRANK LAUTENBERG

Mr. Chairman, I am pleased today to commend your efforts to encourage the reuse and redevelopment of abandoned property that has been contaminated. I share your concern about the under-utilization of valuable industrial properties throughout our country.

The most recent economic reports are not encouraging, especially for States like ours that have suffered significantly from this, the longest recession since the Great Depression. Too many Americans are still without a job, and many have low hopes of finding employment in the near future. Our top priority must be to get our economy going again, and we must be as creative as possible about adding and keeping the businesses and jobs we need.

One creative approach, which I applaud you for promoting, would foster the cleanup of properties that have suffered minor environmental contamination so as to free

those properties for economic redevelopment and jobs creation. As chairman of the Senate Superfund, Recycling, and Solid Waste Management Subcommittee, I have seen how even minor contamination of property can chill economic development, since lenders and prospective buyers are reluctant to enter into transactions that would lead to environmental liability. There are some 100,000 properties in the country that have suffered minor environmental pollution. Many of those properties, if cleaned up, could provide the seeds for redevelopment and an economic boon for their surrounding communities.

In my own State of New Jersey, a program to foster the voluntary cleanup of minor contaminated properties has yielded enormous economic as well as environmental returns. Under that program, the owner of contaminated property may approach the State and offer to clean up the site, under State standards and oversight that is fully funded by the property owner. In return, after the site has been cleaned up, the State provides a letter that assures all comers that the property has in fact been cleaned up to the State's satisfaction. Such a letter can provide critical assurance to prospective buyers, lenders, and tenants that it is safe for them to enter into a real estate transaction with the property owner.

This simple concept has already generated enormous returns. The State program, only 16 months old, has cost the State \$3 million to start up, but has already generated 3,000 jobs and several hundred million dollars worth of economic redevelopment. It is expected to be largely self-sufficient from hereon in, with incoming "clients" paying their way for any needed State oversight activities and technical assistance. As you know, many other States, including Oregon, Illinois, Indiana, Minnesota, Massachusetts, and New Mexico have also begun similar voluntary cleanup programs. And I have introduced S. 773, the Voluntary Environmental Cleanup and Economic Redevelopment Act of 1993, with a bipartisan majority of the Senate Environment and Public Works Committee, to make such a program possible in States across the country.

Mr. Chairman, I believe that the legislation which you have introduced, S. 299, is fully consistent with the approach I have taken in S. 773 in seeking economic redevelopment of contaminated properties. I applaud you, Mr. Chairman, on your creative initiatives in seeking to encourage the redevelopment of abandoned industrial facilities. I look forward to working closely with you to refine a single legislative approach that will maximize the goals of environmental cleanup and economic progress.

PREPARED STATEMENT OF SENATOR CHRISTOPHER J. DODD

First let me commend our Chairman for holding this hearing and for all of the hard work he has done on this legislation. I am pleased to be a cosponsor of this bill, and I look forward to working with Chairman Riegle and Senators Boxer and Moseley-Braun on this issue in the future.

The Abandoned Land Reuse Act addresses a critical issue facing communities across our Nation: How to redevelop underutilized industrial sites.

We all know the problem. Industrial facilities with rusting beams and broken windows sit idle in our towns and cities. The legacy of an earlier industrial generation, these facilities are usually contaminated with various pollutants. Residents of my home State of Connecticut are familiar with facilities such as Royal Business Machines in Hartford, Bryant Electric in Bridgeport, and the former Century Brass Site in Waterbury. The restoration and reuse of such facilities would not only clean up the environmental problems but would also increase the tax base, improve distressed neighborhoods, and create jobs. However, primarily because of environmental concerns, it has been very difficult for communities to find the investment capital needed to revitalize these facilities.

The Abandoned Land Reuse Act would provide help. The legislation authorizes grants by the Secretary of Housing and Urban Development to local governments or nonprofit community development corporations for the redevelopment of abandoned industrial facilities that are located in economically distressed communities. To ensure that the local grantee has a sufficient stake in the project, the bill requires the local grantee to contribute 25% of the costs of the site restoration.

It is important to note that this is not a new superfund program or an expensive new mandate. This legislation would simply offer a helping hand to those communities that are committed to the rehabilitation of their abandoned industrial sites.

I am particularly excited about the potential benefits from this legislation in my home State of Connecticut, where the public and private sectors are working together to address this issue. For its part, the State has recently developed a pilot program to assess environmental conditions at certain abandoned industrial sites.

I am pleased that we have Edward Parker from the Connecticut Department of Environmental Protection with us today. I am sure that he will provide insight into the ways in which the Abandoned Land Reuse Act would complement State efforts.

In addition to the efforts of the State government, the business community in Connecticut has also become involved. A good example is the work of Environmental Warranty, a company based in West Hartford, Connecticut. It has developed an environmental site assessment insurance policy that pays up to the value of the property if environmental contamination is discovered. By allowing investors and lenders to transfer the risk of undiscovered environmental contamination, this type of insurance will make the financing of redevelopment efforts much easier.

Clearly, the present efforts being made by State and local governments and the private sector would get a much-needed boost from the Abandoned Land Reuse Act. By providing additional capital and strengthening the partnership between the Federal Government and local communities, the legislation would stimulate the redevelopment process. And as the number of rehabilitated sites continues to grow, the comfort level of investors will increase.

Of course, the key benefit from this legislation will be jobs. Initially, as industrial facilities are restored, there will be new construction opportunities and environmental clean-up work. After the sites are converted, the companies that move into the improved facilities will bring new manufacturing jobs.

Clearly, this legislation offers exciting opportunities for our distressed communities. I look forward to hearing today's testimony and in helping to move this legislation forward. Thank you.

SUMMARY OF ABANDONED LAND REUSE ACT OF 1993

The bill creates a program to facilitate the reuse of former industrial and commercial sites and facilities, where business operations have ceased, or only marginal operations continue, and redevelopment or reuse costs exceed the financial resources of site owners.

Grant recipients must contribute at least 25 percent of the costs of making sites marketable. Eligible grantees are general purpose local governments and local, non-profit community development corporations. Non-Federal third parties may help grantees satisfy their contribution requirement.

After the conduct of an open, competitive selection process, the Secretary or a State Governor by delegation of authority would select demonstration sites based upon criteria that require:

- an economically viable redevelopment or reuse project;
- significant leveraging of the Federal grant with non-Federal funds;
- site location in areas suffering economic and social distress;
- intergovernmental agency cooperation and public/private partnership; commitment of State and local governments to programs that facilitate site redevelopment or reuse;
- consideration of need for assistance to achieve site reuse; consideration of job training and employment opportunities generated by the project; and
- timely site redevelopment or reuse.

The demonstration program applies to sites *other than* Federally-owned facilities.

The bill also provides that up to 5 percent of the funds appropriated to implement the program can be used for technical assistance grants to facilitate local grantees' participation in the program and their successful achievement of program purposes.

The bill provides for the authorization of \$100 million for each of the next three fiscal years, and requires the Secretary to submit by December 31, 1995, an initial report evaluating the results of the demonstration program.

The bill requires the Secretary or State Governor to implement the program in a manner that does not relieve site owners from liability that may exist under Federal, State, or local law relating to site conditions.

Grant recipients also would be obligated to repay:

- up to 85 percent of Federal grant funds, if grant-funded costs were recovered from parties responsible for remedying site conditions under applicable law or with an interest in a site or adjacent property following site redevelopment or reuse; or
- the full grant amount plus interest, if approved redevelopment or reuse of a site were not initiated and implemented in a timely manner. In the latter event the Secretary or State Governor would have authority to waive repayment in limited circumstances.

TESTIMONY OF DR. BENJAMIN F. CHAVIS, JR., EXECUTIVE DIRECTOR
NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE

MAY 5, 1993

Chairman Riegle and Members of the Committee on Banking, Housing, and Urban Affairs, I am Benjamin F. Chavis, Jr., Executive Director of the National Association for the Advancement of Colored People. I am indeed pleased to have this opportunity to present testimony on the "Abandoned Land Reuse Act of 1993" (S. 299). I wish to express my appreciation to Mr. Riegle for sponsoring this important legislation. In particular, I note that one of the co-sponsors of this legislation is Senator Carol Moseley-Braun (D-IL), the first African-American woman to serve in the U.S. Senate. I also wish to express my appreciation to Mr. Charles Lee, Research Director, United Church of Christ Commission for Racial Justice, for his assistance in preparing this testimony.

As I have often said before, I am no stranger to the "hood" and I hold a deep and abiding personal commitment to the revitalization of the nation's urban areas. Therefore, I welcome every opportunity to explore ways by which the resources resident within our communities can be harnessed to fulfill their greatest potential. Indeed, I believe that this ranks among our nation's greatest challenges as we prepare for the 21st century.

I endorse the goals of this legislation, i.e., "to establish a program to demonstrate the benefits and feasibility of redeveloping or reusing abandoned or substantially underutilized land in economically and socially distressed communities." These goals seem entirely consonant with President Clinton's remarks in his Earth Day 1993 Speech, "Poor neighborhoods in our cities suffer most often from toxic pollution. Cleaning up the toxic wastes will create new jobs in these neighborhoods for those people and make them safer places to live, to work, and to do business."

I wish to commend the foresight of the Committee for recognizing the tremendous and shameful waste of industrial, commercial, educational and human resources that lie fallow in the abandoned lands in our nation's urban areas. We can ill afford the impact on our communities of large scale abandonment of factories and other industrial sites, with its concomitant unemployment and loss of a manufacturing tax base for our cities. Environmental decay is an integral part of the downward spiral of inner-city deterioration. Given the concentration of African Americans and other people of color in urban areas, we know that the impact of such abandonment on our communities is particularly egregious.

Mr. Chairman, I have spent much time in communities that are the object of this legislation. I have visited with young men dying of cancer at the Altgeld Garden Housing Project in the predominantly Black and Latino Southside of Chicago, Illinois. This housing project is built on top of a landfill, and is characterized by its residents as a "toxic doughnut." It is surrounded by seven landfills, a sewage-treatment plant, a paint factory, steel mills and numerous chemical companies, many of which are closed and abandoned. Sadly, this housing project represents the norm, not the exception, in people of color inner-city and urban communities.

In 1987, the United Church of Christ Commission for Racial Justice published the landmark study Toxic Wastes and Race in the United States. One of its most salient findings was the high number of hazardous waste sites in urban areas populated by African Americans and Latino Americans. These communities suffer an unacceptance burden from multiple sources of toxic pollution. For this reason, I support the reintroduction of the Environmental Justice Act, originally introduced last year by then Senator Albert Gore and Representative John Lewis. This legislation seeks to establish a program to study significant adverse impacts on human health and to ensure nondiscriminatory enforcement of and compliance with environmental, health, and safety laws.

Equally pernicious and debilitating are the economic consequences of urban decay. The wholesale abandonment of entire communities, many of whose factories are contaminated, is misguided. Not only do many African Americans and Latino Americans live in communities targeted for the disposal of environmental toxins and hazardous wastes, but in fact they live in fully disposable communities. I applaud this committee for calling our attention to the critical nexus between environmental cleanup and economic revitalization.

In October 1991, the Commission for Racial Justice sponsored the First National People of Color Environmental Leadership Summit. It adopted a set of seventeen Principles of Environmental Justice, one of which affirms the need for environmental policies to clean up and rebuild our cities. Clearly, we need to combine the goals of environmental reclamation and reuse with economic revitalization and job creation. This is a theme consonant with the present demand to choose policy op-

tions which ensure both environmental protection with economic prosperity. However, we want to reiterate our position that in no way should any effort compromise the enforcement of pertinent environmental regulations and statutes.

The primary purpose of this testimony is to encourage a broad based exploration of the development of the new partnerships which would be critical to ensuring success in combining economic revitalization and environmental cleanup. Demonstration projects are needed which can give visibility to creative attempts to overcome the obstacles of economic revitalization in urban America. We are therefore pleased that such partnerships are beginning to emerge.

Take, for example, a recent partnership between the Bethel New Life, a not-for-profit community improvement corporation in the predominantly African American West Garfield neighborhood of Chicago, and Argonne National Laboratories to determine how the expertise of a national research and development center can be applied for the self-help effort of a community development corporation to improve the environment, economy and educational resources of the West Garfield area. The areas of focus include: Industrial Site Reclamation, Waste Recycling, Energy Efficient Housing, Business Development, and Education.

We wish to note the full support of Congresswoman Cardiss Collins for this Chicago-based demonstration effort.

Other partnerships and projects of note include the creation of a job training program at the New Jersey Institute of Technology for persons from inner-city Newark neighborhoods. Training programs would range from lead paint assessment and abatement to the handling of hazardous materials. We are aware of the job training project at Cuyahoga Community College in Cleveland, Ohio, started with a grant from the U.S. Environmental Protection Agency.

It is critical that the benefits of these programs be retained within the communities they are intended to serve. Hence, community participation in the design and implementation of models should be required. We would argue for the provision of technical assistance toward this end. Lastly, we should examine the role of the educational institutions—be they community colleges or elementary and secondary schools—in elevating, transmitting and retaining within the community the level of technological and environmental literacy capable of supporting new enterprises. It is helpful that the recently formed National Environmental Education and Training Foundation has chosen urban education as its primary focus. We would hope that an examination of the initiatives to combine jobs training, job creation, and environmental quality be part of this focus.

In the past, the environmental movement has excluded our cities from its definition of what constitutes the environment. Certainly the emergence of a movement for environmental justice has begun to correct this unfortunate perception. Mr. Chairman, we look forward to a productive and worthwhile examination of strategies that would link environmental and economic justice as the cornerstones of a rebirth of America's cities.

INTRODUCTION OF SALVATORE "BUDDY" SCOTTO BY REPRESENTATIVE EDOLPHUS TOWNS

MAY 5, 1993

Mr. Chairman, Senators: It is my pleasure to introduce Salvatore "Buddy" Scotto. Buddy is one of the strongest community activists in my district, and has fought to improve some of the most disadvantaged neighborhoods in Brooklyn.

Buddy was born in Brooklyn in 1928, and attended St. Francis College. Although he eventually finished his B.A. there, his studies were interrupted by the Korean War. During that war, Buddy became the youngest master sergeant in the Far Eastern Command. During his active service, he rose to the rank of Captain. After 5 years active service, he did 8 years reserve service in the New York National Guard.

Since 1964, Buddy has been active in Brooklyn civic affairs. He was instrumental in getting a new sewage treatment plant in the Brooklyn Navy Yard, and has been working hard to improve the Gowanus Canal area. He organized the Carrol Gardens neighborhood—really, in many ways, Buddy *created* the sense of neighborhood in Carrol Gardens, uniting the community, and he remains "the man to talk to" about anything involving that area.

I thank you for the opportunity to introduce Buddy Scotto to this committee. He has shown his devotion to his country, and to our community. I recommend that you give careful attention to his testimony today.



STATE OF CONNECTICUT
DEPARTMENT OF ENVIRONMENTAL PROTECTION

May 4, 1993

The Honorable Donald W. Riegle, Jr., Chairman
Senate Committee on Banking
Housing and Urban Affairs
U.S. Senate
Washington, D.C.

Dear Senator Riegle:

The Connecticut Department of Environmental Protection has been asked to provide our views concerning S.299 "The Abandoned Land Reuse Act of 1993". It is my understanding that the purpose of this bill is to establish a program to demonstrate the benefits and feasibility of redeveloping or reusing abandoned or underutilized land in economically and socially distressed communities. In 1992, Connecticut passed legislation (PA 92-235) having the same goal. To date, we have implemented a pilot program to undertake environmental assessments at 2 sites per year. The Connecticut General Assembly is presently considering legislation to expand the pilot program into a full urban site remediation program with dedicated staff and additional bond funds for site assessment and cleanups. The Abandoned Land Reuse Act of 1993 compliments and enhances our efforts.

I support your legislation and would like to commend you for your common sense approach and for recognizing the importance of site clean-ups as an integral part of the work necessary to achieve our goal of revitalizing our distressed communities. I have attached additional information for your review and consideration regarding our experiences and issues related to S.299. I am committed to providing any assistance I can as you continue in your work on this initiative. If you or your staff have any questions concerning this letter or the attachment, you may contact Mr. Edward Parker at (203) 566-7132.

Sincerely,

Timothy R.E. Keeney
Commissioner
Department of Environmental Protection

TREK:ECP:hc

TESTIMONY BY TIMOTHY R.E. KEENEY

COMMISSIONER, CONNECTICUT DEPARTMENT OF ENVIRONMENTAL PROTECTION

INTRODUCTION

Throughout Connecticut there are hundreds of urban industrial sites that are vacant or significantly underutilized. More than 100 of these sites are located in our most distressed communities. Each site has an environmental problem associated with past waste disposal practices, discharges, or spills. The extent and degree of the pollution on site both in soil and groundwater is undefined. This problem is not unique to Connecticut but is a national problem, especially in our industrialized States.

The Abandoned Land Reuse Act of 1993 will establish a program to demonstrate the benefits and feasibility of redevelopment and reuse of abandoned or substantially underutilized sites in economic and socially distressed communities.

Clearly there are many potential benefits associated with the remediation of sites in distressed urban areas including: environmental, health, economic, social and employment. Business and industry will return to our cities thereby limiting the environmental impacts of sprawl into previously undeveloped areas. Contaminated sites that otherwise would not be remediated for decades will be cleaned up. Risks to public health associated with direct exposure to wastes at these sites can be minimized or eliminated. Significant employment opportunities including new, permanent manufacturing jobs as well as short term construction jobs will be created. Distressed neighborhoods will be rehabilitated. As such, the continuing deterioration of our inner-city environment and the associated abandonment of large areas of our cities can be slowed or even reversed. The tax base of our most needy communities can be expanded and additional tax revenues from development of properties currently idle will help alleviate financial constraints on both municipal and State government. In general, this program can help provide a new start for distressed communities that were once vibrant manufacturing centers.

Based upon Connecticut's experience to date in developing and implementing an urban site remediation pilot program in 1992, we believe this initiative will demonstrate that redevelopment and reuse is feasible. However, the key to success is almost entirely dependent on eliminating or thoroughly defining the single greatest impediment—on-site pollution and the environmental liability associated with it. Time after time business and industry have looked elsewhere rather than accept responsibility for the cost of cleaning up a site contaminated by others. Private investors and banks are unwilling to provide the capital necessary for redevelopment unless the environmental issues are addressed to the satisfaction of the Connecticut Department of Environmental Protection.

This bill provides funding which is necessary to eliminate the environmental constraints that preclude reuse and redevelopment. In general, the legislation also provides a straightforward common sense approach for administering the program.

Connecticut's Experience at Urban Site Remediation

In 1992, the Connecticut Department of Economic Development undertook a major initiative: to bring business and industry back to Connecticut. To achieve this objective the State had to have available "clean" industrial sites. Rather than select sites in undeveloped areas and promote potential environmental impacts, the State focused its site selection on urban areas. Two key advantages presented by urban sites are the existence of the necessary infrastructure as well as a trained labor force.

An evaluation of our major urban areas, once vibrant manufacturing centers, identified scores of abandoned or underutilized sites. Most of these sites have been idle for years and in some instances a decade or more. Each of the sites is contaminated to an unknown extent. However, the threat posed to the environment and public health was not considered significant enough to address before cleaning up other sites which are contaminating water supplies. Consequently, the Department of Environmental Protection focused its limited resources to remediate sites with the most serious problems located mostly in rural areas, and left urban sites alone to be addressed at some time in the future.

We quickly discovered that to achieve our goal of rebuilding the State's economy a priority must be given to urban sites so clean sites could be available for reuse or redevelopment. As such, the Department of Environmental Protection proposed legislation (known as the Urban Site Remediation Program which was passed by the Connecticut General Assembly in 1992 [PA 92-235]). This Act established a program to identify, prioritize and evaluate sites in our most distressed cities. The goal of our program is the same as S. 299. Currently, the Connecticut General Assembly

has before it legislation introduced by Governor Weicker to expand the pilot program into a full program with an additional \$20 million in bond funds for study and clean up and dedicated staff to implement the program. Under the pilot program as well as pending legislation there is a provision for cost recovery. The Department of Economic Development is authorized to approve the first use of development of the site to ensure consistency with the State's plan for Economic Development.

To date, one site has been selected for evaluation under the pilot program. Two additional sites are expected to be selected by June 30th.

The first site selected is a large (50± acre site) that has been in industrial use since the turn of the century. There have been a variety of manufacturing processes on the site which resulted in the release of hazardous wastes contaminating the soil and groundwater. The current property owner is not responsible for creating the most significant contamination found on site and is unwilling to evaluate or clean-up and pollution created by previous occupants. Thus, no action has been taken to date to remediate the site by the property owner. The former occupant is out of business. There have been several parties interested in redevelopment. However, no action will be taken until the extent and degree of contamination is determined.

The Department of Environmental Protection has undertaken the necessary studies to establish the extent and degree of contamination and identify remedial measures for clean-up to State standards. The study is expected to be completed in 6 to 9 months. Once the study is complete the property owner, State and local economics development officials can actively market the site for redevelopment or reuse.

Also, at the conclusion of the study, the Departments of Environmental Protection and Economic Development will negotiate with the current property owner an agreement to recover costs. Any recovered funds will go into a revolving fund to be utilized to fund additional projects.

There are hundreds of sites in Connecticut and no doubt thousands nationwide that are idle. Without funding from States or the Federal Government to initiate site evaluation and clean-up the goal to reuse these sites will be very difficult to achieve.

Comments on S. 299

The State of Connecticut supports S. 299. Clearly, it is good public policy to remediate sites so they can be returned to productive use. The proposed legislation represents a common sense approach which also compliments and enhances Connecticut's Urban Site Remediation Program.

There are several issues that we would like to raise for your consideration:

1. The State rather than local government or other entities should be given the authority to implement the program. There are several reasons to support this position. The State regulatory program already has authority to regulate the clean-up of contaminated sites under a variety of regulatory programs including TOSCA, RCRA, CERCLA, LUST not to mention State Superfund, Urban Site Remediation and Connecticut's Property Transfer Act. These authorities have not been delegated to local governments. If grants were provided directly to local governments or other entities, approval of studies and remediation plans would still require review and approval by the State regulatory agency. We suggest that flexibility be provided in the bill so a State can choose to fully implement the program at the State level. With State's having the lead role, the consultant selection and plan review and approval process can be expedited by drawing on the regulatory agencies greater expertise in several specialized areas. Administrative and oversight costs would be minimized. Existing State capability would be enhanced rather than expending resources to develop a new capability at the local level that in all likelihood would duplicate existing State programs.

2. A key role for local government, non-profit groups, etc. is the identification and prioritization of potential sites within the community. Local governments have far more knowledge on site location, historical use, site conditions, and building conditions than State government. This knowledge is invaluable. We would recommend that the role of local entities be limited to site selection and prioritization within their community and in determining the reuse or redevelopment of the site.

3. The grant application and competitive site selection procedure as proposed should be reconsidered. For example, under its urban site remediation program the DEP works closely with the State Department of Economic Development who in turn through their regional agents work closely with local governments to identify and prioritize sites having significant economic development potential. The bill requires that local governments or other entities submit an application identifying potential sites to the State for review and consideration under a competitive site selection process. It is likely that hundreds of applications could be submitted to the State for evaluation with the possibility that only 1 or 2 sites may be selected for

funding. With limited resources, important sites can be identified for evaluation without requiring local government or other entities to submit a formal application to the State for consideration. I would therefore recommend flexibility so the State can select sites without an application and competitive review process.

4. For the purposes of the demonstration program State participation should be limited to ten or so States with a primary focus on those States that have already taken the initiative to implement similar programs. By carefully selecting participating States the evaluation process to determine the feasibility of this program can be expedited. Also, bear in mind that a \$100 million appropriation, allocated among many States will not go far. For example, if \$10 million were given to ten States that should be sufficient funding to evaluate and clean-up approximately 5 sites per State at a cost of \$2 million per site. A focused effort in a small number of States should be considered.

TESTIMONY BY EDWARD PARKER

DIRECTOR OF PERMITTING, ENFORCEMENT, AND REMEDIATION
CONNECTICUT DEPARTMENT OF ENVIRONMENTAL PROTECTION

Good morning Chairman Riegle and other members of the U.S. Senate Committee on Banking, Housing, and Urban Affairs. My name is Ed Parker and I am Director of Permitting, Enforcement, and Remediation for the Connecticut Department of Environmental Protection.

I am pleased to be here today to testify in support of Senate Bill 299, the Abandoned Land Reuse Act of 1993, cosponsored by Chairman Riegle, Connecticut Senator Dodd, and Senators Jeffords, Symms, Levin, Boxer, and Moseley-Braun.

This bill will establish a program to demonstrate the benefits and feasibility of redeveloping or reusing abandoned or substantially underutilized land in economically and socially distressed communities.

In Connecticut alone more than 100 contaminated industrial sites have been identified that are vacant or underutilized. Many of these are located in our most distressed cities. This situation is not unique to Connecticut but is a national problem.

Our cities have the labor force and the water supply; sewer service, energy and transportation infrastructure needed by business and industries. Unfortunately, the redevelopment and reuse of these properties is severely constrained by hazardous wastes that have contaminated these sites. In most instances property owners do not have sufficient resources to undertake a baseline environmental assessment. Given the unknown environmental liability, business and industry has and will continue to look elsewhere rather than accept responsibility for the cost of cleaning up a site contaminated by a previous occupant. In addition, banks and private investors will not provide the necessary capital for redevelopment unless at a minimum the extent of contamination has been defined. In many instances lenders are also requiring that the contamination be cleaned up prior to granting loans.

This proposal will provide resources which are necessary to initiate remediation of contaminated sites and thereby eliminate the environmental constraints that preclude reuse or redevelopment. The availability of clean sites in urban areas will create many potential benefits including environmental, health, economic, social and employment. Business and industry will return to our cities thereby limiting the environmental impacts of sprawl into previously undeveloped areas. Contaminated sites that otherwise would not be remediated for decades will be cleaned up. Risks to public health associated with direct exposure to wastes at these sites can be minimized or eliminated. Significant employment opportunities including new, permanent manufacturing jobs as well as short term construction jobs will be created. Distressed neighborhoods will be rehabilitated.

As a result, the continuing deterioration of our inner-city environment and the associated abandonment of large areas of our cities can be slowed or perhaps even reversed. The tax base of our most needy communities can be expanded and additional tax revenues from development of properties currently idle will help alleviate financial constraints on both municipal and State government.

In general, this demonstration program can help provide a new start for communities that were once vibrant manufacturing centers and now are in distress due to economic decline and decay of their industrial base.

The bill as drafted will address the principal objective of the legislation—restoration of the marketability of abandoned land and the revival of the community where the land is situated. I would like to commend your common-sense approach and for recognizing the importance of site clean-up as an integral part of the goal to revitalize our distressed communities.

I have several recommendations that I believe will improve the likelihood of successfully achieving the objectives of this proposal. First, I would modify section 904(d) to provide the Governor of a delegated State the authority to forego the grant application process and the competitive site selection procedure. The Connecticut Department of Environmental Protection, in conjunction with the Connecticut Department of Economic Development, already has a process in place to evaluate and prioritize urban sites for remedial action. This procedure is a requirement of PA 92-235. This act which was passed in 1992, created Connecticut's Urban Site Remediation Program. I would also recommend that the State Governor have the flexibility of administering funds directly rather than providing grants to local grantees. These suggestions will help expedite the implementation of the program by minimizing administrative and oversight costs and avoiding duplication of State environmental agencies.

Lastly, bear in mind that the funding proposed for this program is sufficient to address only a limited number of sites. It is conceivable that in Connecticut alone more than 100 applications would be received with the likelihood of only 1 or 2 sites being selected assuming the funds were equally distributed to 25 States (4 million per State). The burden on local governments or other entities of preparing applications, and on the State for review is not warranted under a demonstration program.

In closing, I would like to State that this proposal compliments and enhances Connecticut's pilot Urban Site Remediation Programs and that Connecticut would be happy to provide additional assistance as you continue your work on this initiative. I also would like to thank you for the opportunity to testify.

TESTIMONY OF STATE REPRESENTATIVE GREGORY E. PITONIAK 22ND DISTRICT, LANSING, MICHIGAN

Mr. Chairman, members of the Senate Banking Committee, thank you for the opportunity to testify before you on S. 299, the Abandoned Land Reuse Act of 1993.

As Chairman of the Economic Development Committee of the Michigan House of Representatives, I am acutely aware of the need for cooperation among Federal, State, and local governments in order to promote models for the timely redevelopment of abandoned, under-utilized, or contaminated commercial and industrial sites.

My testimony will be presented in the following format.

- A response to the issues posed by the Committee
- A review of Michigan's situation, and
- Michigan's efforts to encourage the redevelopment of abandoned and under-utilized sites.

RESPONSE TO ISSUES RAISED BY THE COMMITTEE

(1) Potential Benefits

S. 299 would provide local governments, on a demonstration basis, significant financial tools to reclaim, rehabilitate, and eventually reuse abandoned or under-utilized commercial and industrial sites in communities plagued by social and economic distress. This legislation would allow local government officials to "take control" of their community's destiny by aggressively spearheading efforts to restore parcels of property with economic redevelopment potential, with the goal of making those parcels attractive to investors and developers.

The thrust of the bill is empowering local officials to directly attack the financial impediments they face in rebuilding their communities.

Other benefits include:

- *Utilizing Existing Infrastructure*—Instead of abandoning our older towns and cities in favor of urban sprawl, we must place a priority on redeveloping areas that already have roads, sewers and other public improvements.
- *Off-Site Economic Benefit*—Once a site has been selected and redeveloped its reuse could spur economic development in the immediate vicinity. For example: The Michigan Site Reclamation Program (a description of this program will be provided later in my testimony) funded the re-opening of an old shipping canal through cleanup activities that included excavation of the contaminated fill materials in the canal. The resulting economic benefit was the establishment of commercial businesses—offices, retail, and a restaurant—in buildings near the canal.
- *District Wide Incentives*—The Michigan DNR Site Reclamation Program provides grants and loans to encourage redevelopment of selected qualifying sites, but area-wide incentives are needed to create a more comprehensive redevelopment program. Instead of reclamation on a site-by-site basis, under the bill planned programs for a variety of new economic developments could be encouraged for mul-

tiple properties, encompassing many blocks or several square miles, within local communities encompassing many blocks or several square miles.

(2) Principal Objectives

Almost without exception—from the largest city to the smallest village—Michigan communities have become warehouses for abandoned and under-utilized parcels of commercial and industrial property. For a variety of complex, interrelated reasons, commercial and industrial enterprises have engaged in a steady exodus from our State's more established towns and cities to "greenfield" sites in distant suburban communities. The job-seeking population has followed, leaving behind thousands of attractive commercial and industrial sites—served by superb infrastructure—that could be rehabilitated and redeveloped.

The greatest impediment to rehabilitation and redevelopment, from the local government level, is the lack of adequate financial resources to begin and complete the rehabilitation process. Plagued by depressed commercial and industrial economic activity, sharp reductions in private-sector employment and the resulting steep declines in the municipal tax base, local governments simply lack the financial muscle to reclaim and rehabilitate abandoned commercial and industrial sites, and make them attractive for redevelopment.

The principal objective of S. 299 would be to provide local governments with the financial means that will bring about renewal and reuse of these valuable pieces of property.

(3) Opportunities in Michigan

There are literally thousands of properties in hundreds of Michigan communities that could qualify for funding under the site redevelopment demonstration program envisioned by the Honorable sponsor and co-sponsors of this bill. S. 299 would give local officials the means to:

- inventory abandoned and under-utilized commercial and industrial sites in their communities;
- prioritize the local community's site inventory list according to reuse and redevelopment potential;
- assess costs for removing unsafe structures, remediating environmental contamination and rebuilding site infrastructure; and
- develop the sites attractiveness to potential developers or investors.

(4) Successfully Achieving The Legislation's Objectives

It is critical to the success of this program that the determination and weight given to the factors for selecting these demonstration projects be as specific and stringent as possible. In order for the selected projects to adequately serve as models considerable weight must be given to well documented commitment at the State and local community level.

We believe Michigan has superb legal and programmatic tools in place to take full advantage of the opportunities proposed in the bill before this committee. Michigan is poised today to utilize these financial resources, in the exact manner spelled-out in the legislation, to work with local governments who wish to rehabilitate and reuse commercial and industrial properties.

MICHIGAN'S SITUATION

(1) Contaminated Sites

Each year, pursuant to the Michigan Environmental Response Act (PA 307 of 1982, as amended) or MERA, a list is prepared of *Michigan Sites of Environmental Contamination*. The Fiscal Year 1994 list has been recently issued. The list identifies environmental contamination locations and ranks these sites under a scoring system that reflects the site's risk to public health and the environment. Scores range from 1–48, with 48 posing the greatest risk.

The Fiscal Year 1994 list identifies 8,757 sites.

Allow me to outline the problems local communities in Michigan are facing with "abandoned sites" as defined by S. 299 and listed by Michigan as a site of environmental contamination.

There are 83 counties in Michigan. Every one of these counties has a site of environmental contamination. As defined by MERA, environmental contamination means the release of a hazardous substance, or the potential release of a discarded hazardous substance, in a quantity which is or may become injurious to the environment or to the public health, safety, or welfare.

Of the 8,757 sites, 1,035 are listed as inactive. Inactive sites are defined as sites where a remedial action plan has not been approved by the Michigan Department

of Natural Resources (DNR) and where evaluation, interim response activity, remedial actions, and/or operation and maintenance *have not* been undertaken. Every county has one of these inactive sites.

The Michigan DNR Environmental Response Division is administered through three regions. Region I includes the 15 counties in the Upper Peninsula (UP). Region II includes the 34 counties located from the middle to Northern Lower Michigan, and Region III includes the 34 counties located from the middle to Southern Lower Michigan. In Region I there are 77 inactive sites and 41 inactive leaking underground storage tank (LUST) sites. In Region II there are 251 inactive sites and 84 inactive LUST sites. In Region III there are 411 inactive sites and 154 inactive LUST sites.

(2) Economic and Social Distress

Section 907(a)(4) of S. 299 discusses the degree of economic and social distress of the local community in which the sites are located. The degree is determined by considering industrial employment loss, relative income of local community residents, decline in economic activity, population loss or growth disproportionate to local economic opportunity, and other factors as determined by the Secretary of Housing and Urban Development.

(3) Local Communities

Local communities which contain abandoned, under-utilized or inactive contaminated sites and are facing severe economic and social distress are located in each of the three Regions. Some examples for each Region are:

Region I—Upper Peninsula

ONTONAGON COUNTY:

- has 19 inactive contaminated sites;
- in 1980 the population was 9,861. In 1990, it was 8,854, a decrease of 10.21 percent;
- the economically disadvantaged population is defined as individuals who receive welfare, have incomes below the current poverty level, receive food stamps, or are handicapped adults whose own income is below poverty. In the Western Upper Peninsula where Ontonagon County is located, the 1990 economically disadvantaged population was 13,219. In 1991 it was 13,357, an increase of 1 percent.

Region II—Middle to Northern Lower Michigan

ALPENA COUNTY:

- has 25 inactive contaminated sites;
- in 1980 the population was 32,315. In 1990, it was 30,605, a decrease of 5.29 percent;
- the economically disadvantaged population in Northeast Michigan where Alpena County is located was 17,451 in 1990. In 1991, it was 17,553, and increase of .6 percent.

MANISTEE COUNTY:

- has 21 inactive contaminated sites;
- in 1980, the population was 23,019. In 1990, it was 21,265, a decrease of 7.62 percent;
- the economically disadvantaged population in Northeast Michigan where Manistee County is located was 17,451 in 1990. In 1991, it was 17,553, and increase of .6 percent.

Region III—Middle to Lower Michigan

BERRIEN COUNTY:

- has 23 inactive contaminated sites
- in 1980, the population was 171,276. In 1990, it was 161,378, a decrease of 5.78 percent;
- the economically disadvantaged population in the Berrien-Cass-Van-Buren area was 41,550 in 1990. In 1991, it was 43,810, a 5.4 percent increase.

WAYNE COUNTY:

- has 49 inactive contaminated sites;
- in 1980, the population was 2,337,843. In 1990, it was 2,111,687, a 9.67 percent decrease;
- the economically disadvantaged population in Wayne County was 341,172 in 1990. In 1991, it was 379,842, a 10.2 percent increase.

More graphically, in the City of Detroit the economically disadvantaged population was 283,981 in 1990. In 1991, it was 320,157, a 12.7 percent increase.

In Detroit, a specific problem which is shared with other Michigan towns and cities located near rivers and the Great Lakes is that much of the waterfront properties were contaminated as swamp areas were filled with industrial fill material like fly ash, which contains high levels of metals.

MICHIGAN'S EFFORTS

(1) Polluters Pay Policy

PA 233 and 234, amending MERA were adopted in 1990 and provide an environmental enforcement mechanism and settlement process for Michigan. With this legislation, the State is able to more successfully pursue the responsible parties for their share of the cleanup costs. These acts set up a mechanism which will increase voluntary settlements and decrease the amount of money spent on litigation costs.

PA 233 and 234 outline the basic enforcement tools of the State and liability provisions for contaminated sites. They also outline an allocation process which can be used for negotiating a settlement regarding responsibility for response costs. These public acts were designed to be a "polluters pay" policy and encourage settlements. The allocation process gives parties an avenue to avoid joint and "several" liability through agreement on remedial action and clean up procedures.

(2) Site Reclamation Program

This program acknowledges that throughout the State of Michigan there is an alarming trend in the growth of older towns and cities. As people move away from cities and into the surrounding suburbs, industry follows. This shift of job centers from cities to outlying communities leaves abandoned industrial and manufacturing facilities idle, while "greenspaces" and wetlands are lost to new development.

In November of 1988 Michigan voters approved an \$800 million *Environmental Protection Bond*. Of that bond, \$425 million was targeted toward cleanup and reclamation of sites contaminated with hazardous substances. The goal of the Site Reclamation Program is to facilitate environmental cleanups and promote reuse of contaminated sites. The program's objectives are to:

- characterize and clean up-sites of environmental contamination;
- reduce the loss of "greenspaces" and wetlands by redeveloping and reusing sites in older towns and cities;
- support projects which will provide permanent jobs and an increased tax base for communities; and
- utilize areas with existing infrastructure.
- facilitate use of a variety of funding sources, including private investment, to clean up sites with economic development potential.

(3) Revitalizing Our Michigan Cities

In April 1992, the former Speaker of the Michigan House of Representatives, Lewis Dodak, appointed a special ad hoc committee and citizen advisory group to:

Examine the impacts of State environmental laws and policies on urban sprawl, review current progress in developing approaches for reuse of contaminated properties and make findings and recommendations to the Special Ad Hoc Committee on Revitalizing Our Michigan Cities that encourage private reinvestment in older towns and cities without sacrificing environmental protection or public health.

On April 29, 1993, a legislative package was presented to address the recommendations from the citizen's advisory group. The legislation will:

- provide increased incentives for lenders to provide loans to businesses for redevelopment of contaminated urban sites;
- increase liability protection to lenders in order to encourage the marketing of contaminated property after foreclosure;
- expand the kinds of commercial lenders that will receive the protection to include large insurance companies, regulated foreign banks, large retirement funds, State and Federal agencies and car finance corporations;
- allow a governmental agency to transfer its liability exemption on contaminated property to new owners if certain conditions are met; and
- clarify the process for compensating an owner for contaminated property that is condemned.

CLOSING STATEMENT

Mr. Chairman, members of the Senate Banking Committee, the vitality of major industrial centers in this country, such as my district, relies heavily on a foundation

of industrial jobs. With the decline of industrial jobs, the problems we are facing today seem monumental and, certainly, no one single program can address them all or reindustrialize America. However, a part of our industrial policy, must be to insist that former industrial and commercial areas are given equal consideration for investment as are new "greenspace" areas.

This legislation will help promote this policy and assure a strong environmental stewardship.

TESTIMONY BY TED WYSOCKI

EXECUTIVE DIRECTOR, CHICAGO ASSOCIATION OF NEIGHBORHOOD DEVELOPMENT ORGANIZATIONS [CANDO]

I offer my testimony today in support of S. 299 on behalf of CANDO's members who are actively confronting this problem in their communities. For example:

- **Greater North Pulaski Development Corporation** is working with the City of Chicago to develop a 9-acre site to capture industrial growth while replacing a block of ruin [See attached *Chicago Sun-Times*, March 14, 1993]; and
- **Bethel New Life** has entered into a partnership with Argonne National Laboratory to clean up abandoned properties on Chicago's west side as a job strategy itself [See attached *Crain's Chicago Business*, February 8, 1993].

The provision in S. 299 that includes non-profit community development corporations (CDCs) as eligible grantees is a key component to encourage local initiation and involvement.

I also offer my testimony as a Steering Committee member of the **Coalition for Low-Income Community Development**, a national group focused on ensuring local benefit from Federal programs. They too support non-profits as eligible grantees in order to assure more connections to employment opportunities generated by projects funded. The Coalition is pleased that 5 percent of funds appropriated under S. 299 may be used for technical assistance grants to determine appropriate means of implementing job training programs in connection with reuse projects.

I also testify today as a delegate agency of the City of **Chicago's Department of Planning & Development**, which is currently pursuing the development of seven industrial parks within the city. A 1991 study by Chicago's Economic Development Commission documented the demand for 45 million square feet of industrial space in the city, with only 15 million square feet available (some of it obsolete for modern manufacturing).

Commissioner Valerie Jarrett testified on January 29 of this year at a Northeast Mid-West Congressional Coalition Hearing in Chicago. She noted:

"We estimate that there are over 200 acres of moderately to severely contaminated sites within Chicago. Even if the cost of remediation may be only a small percentage of the land's value, it is extremely difficult to package a redevelopment project for the property given laws which expose prospective purchasers and lenders with risk of liability. Past environmental contamination may become their future liability even though they did not contribute to the prior contamination. In many cases this risk is too high, especially in light of the availability of so called 'green grass' environmentally clean sites."

We continue to build roads to where it's "greener," while sites with good transportation have been left to decay. We continue to condemn our workforce to long commutes, while they live surrounded by abandoned land. That is not environmentally-sound or family-friendly public policy. It is not profitable public investment.

I would also like to testify on behalf of small businesses who run into this road-block to their expansion plans. Trender Metal Products, Inc. is a family-owned company that has been leasing its building on Chicago's west side for 7-8 years. They arranged to buy it from the landlord; but Phase I and Phase II investigations turned up the presence of various paint-related chemicals. The cost to remove the contaminants was estimated to be as high as \$200,000.

But this price is highly variable. It depends primarily on how the contaminated dirt is classified by the disposal site willing to accept it. The cost of disposal per yard of dirt varies in direct proportion to the contamination of the dirt. More contamination equals more cost. Yet, there are no standards by which levels of contamination are classified. Each disposal site has its own definition of contamination. Moreover, the definitions vary not just from dump site to dump site but, depending on demand and a host of other factors, the definition can vary considerably from day to day at the same dump. Yet, the dump sites have a clear self-interest in classifying dirt as more, rather than less, contaminated.

The seller of the building was unwilling either to clean the property or to offset the purchase price by the cost of the clean-up. But even if Trendler cleans up the site (that is even if they remain within the law and have the contaminated dirt hauled away) they will still retain ownership of the dirt and the contaminants in it. They will remain liable if someone files suit against the landfill where the dirt is deposited.

The end result: Trendler has not bought the site. The clock is ticking on their future expansion and they may be forced to leave the city with their 100 jobs.

In closing, I would like to acknowledge the collaboration of the **Northeast-Midwest Institute**. We co-sponsored with them a conference in Chicago two years ago that brought much attention to this issue of confronting environmental and economic issues to industrial reuse. In a 1992 collection of case studies, the Institute noted:

"Achievement of industrial reuse on a large scale will involve the Federal government in formulating a strategy that addresses concerns of developers and investors in a way that is environmentally responsible. . . . Financial incentives are needed to encourage private companies to clean up contaminated buildings and invest new capital."

Finally, let me emphasize that S. 299 offers a new direction for the U.S. Department of Housing & Urban Development to pursue jobs by encouraging local initiatives to reuse a fundamental resource: land.

Let me assure you that the principal objectives of this legislation, to restore the marketability of abandoned land, is very feasible. In fact, the funding proposed is exactly the kind of upfront public investment required to leverage maximum private capital in redeveloping abandoned sites.

Chicago would welcome this new Federal funding. We will invest it wisely. And you will see a return in more Americans working. Blocks of rubble and debris can again produce liveable wages but the land must first be cultivated.

Again thank you for your initiative. I look forward to monitoring the legislation's progress. Projects are waiting to be done in Chicago neighborhoods.

TESTIMONY OF SALVATORE SCOTTO PRESIDENT, THE GOWANUS CANAL CDC

Mr. Chairman, I appreciate that you have given me the opportunity to testify before your committee today on a bill that could prove to be of immeasurable value to my community's 20 year long struggle to rehabilitate Brooklyn's historic Gowanus Canal area.

The Abandoned Land Reuse Act of 1993 represents an important step in the recognition of the importance of the rehabilitation and development of industrial land to the economic condition of America's inner city.

Before addressing some of the questions you have raised about the proposed legislation, I'd like to give you some background on our efforts to clean-up the Gowanus Canal.

The Gowanus Canal, once a creek that was widened in 1774 by the Colonial Assembly of New York, was one of the busiest commercial-industrial waterways in the world and was the heartbeat of Brooklyn's industrial area. Over the years the Gowanus Canal became polluted, and the lack of any way to flush it out hampered efforts to clean it up.

A tunnel was constructed in the early 1900's that extended out to the channel near Governor's Island which allowed fresh water from the Bay to be pumped into the head of the canal to flush out the pollutants. The tunnel remained in operation until the mid-1960's, when a propeller-shaft on the pump broke. An inadequate pumping station and broken propeller-shaft returned the canal to its previous stagnant state. The unsightliness, stench, and disease ridden canal contributed to a decline of industry in the area as about 50 percent of the commercial space became unused and derelict.

The Gowanus Canal Community Development Corporation in the 1970's began to focus on the environmental degradation of the Gowanus Canal and its environs. The Gowanus Canal CDC has been struggling with this issue and is committed to deal with the problem of the abandoned and contaminated sites along the Gowanus Canal. The contamination of land in the area has clearly been a barrier to private investment. Our concern over adaptive reuse cannot be addressed until the clean-up of the waterway and underutilized industrial land is accomplished.

The Gowanus Canal CDC has completed the first stage of the rehabilitation process by spearheading an aggressive campaign in the early 1970's to leverage public funds. Nearly \$480 million was allocated to build the Red Hook Interceptor Sewer

Treatment Plant and to repair and replace the mechanical systems of the Flushing Tunnel and Pumping Station of the Gowanus Canal and to dredge the canal. In recent years the community has had New York City's commitment for clean-up efforts. The municipal government has already committed funds to fully reactivate the Flushing Tunnel that has been inoperable for over 40 years. New York City's Department of Environmental Protection (DEP) is required to dredge the canal from time to time as necessary. DEP has the money secured to dredge the canal. However, the Army Corps of Engineer's Federal guidelines have precluded the opportunity of ocean dumping which leaves the city to deal with this material. This clean-up is necessary to adaptively reuse the land bordering the canal that the Abandoned Land Reuse Act of 1993 addresses.

Our community-based, housing, economic and environmental organization, Gowanus Canal CDC, has reached out to a group in Pennsylvania that has developed the highly innovative application of ancient technology, the process of vitrification, that would allow for the possibility of dredging the canal and dealing with the material at the bottom of the canal. A Federal investment could help with the clean-up and be instrumental in providing new markets. An environmental technology corporation, Global Inner-Harbor Remediation, Inc., is developing new approaches that could not only prove to be highly effective in dealing with the Gowanus Canal but could be a technology that America could export.

Much of the property on both sides of the canal is underutilized and abandoned dumping grounds. The possibilities of contamination of many of the sites and the secretion of gas and oils from abandoned automobiles and trucks on properties adjacent to the canal need to be addressed.

Significant opportunities for new investment in the area has been lost in recent years because of the problem of "possible" site contamination. The existing state of derelict land is what helps isolate the redeveloping areas from the areas that continue to suffer. Being able to overcome that problem of contamination or otherwise blighted sites could make a real contribution to the re-weaving of the fabric of South Brooklyn.

There is a vibrant demand for housing in these communities. This demand took the form of The New York City Housing Partnership's interest to develop a desperately needed affordable housing project on a six-and-a-half acre site alongside of the canal. This area, known as Public Place Site was to have been developed "as the community saw fit" had it not been for the cloud of contamination on that site. The Gowanus Canal CDC has effected the necessary borings and soil analysis at a cost of \$150,000.

As we can best determine, the Public Place site was taken off the contaminated list but it was suggested that the site might be put back on the list if Federal guidelines changed. This has paralyzed the possibilities of any development coming onto this site.

Southwest of the canal is an area called Red Hook which is among the poorest communities in the nation. Red Hook is geographically isolated by water on three sides and an elevated highway. Red Hook's isolation from the rest of the city may have been less critical in the decades when the community was sustained by its own waterfront industrial economy. The crime and drug problems that plague the nation's first Federal housing project were tragically manifested in December, 1992 by the killing of public school principal Patrick Daly. The impact of the highway and the post-industrial shift in the urban economy have contributed to the social and economic isolation of low income areas and other parts of South Brooklyn.

Making that derelict land reusable is part of what is needed to get the isolated communities of South Brooklyn back together again. The process of rehabilitation and redevelopment can contribute to overcoming the problems of drugs and isolation in the poor communities of Red Hook, to the South, and Gowanus Houses, to the immediate north.

To the East and West of the Canal are brownstone revival areas. There are enough resources in the indigenous community that if interlocked properly has real opportunity to stabilize and integrate the area. The stable communities of Park Slope on the East and Carroll Gardens and Cobble Hill on the West have already demonstrated a tremendous interest on the part of the private sector to undertake development.

The Gowanus Canal CDC was instrumental in the conversion of several obsolete multi-story industrial buildings to residential use. But we should not go on this way one parcel at a time. What the area cries for is an overall plan: A possible Urban Renewal designation which would be a logical way to assemble necessary parcels. We feel sure of the success of such an effort by virtue of our past experience working with the stable communities, Park Slope on the East, and Cobble Hill-Carroll Gar-

dens West, and the low-income community, Red Hook on the South, Gowanus-Wycoff Gardens to the North.

This would be a great, social experiment bringing the people into an integrated social and economic development opportunity. Some 250,000 people are within walking distance of the Gowanus Canal. Two subway lines servicing the east/west boundaries of the canal puts the area within a 12 minute subway ride to Manhattan.

The benefits to the community of a national demonstration project are to have a homegrown, technically trained work force that is employed in the clean-up and is available to industry after the clean-up.

Through NEPETE, a Northeast Partnership for Environmental and Technical Education and branch of the national PETE (Partnership for Environmental Technology Education) coalition which is sponsored by the Department of Energy and the Department of Defense, NEWTREAC (Northeast Waste Technology Research, Education, and Applications Center) is the Rensselaer-Brookhaven lab-industry partnership involved in environmental programs like education, remediation, and applied technology, we have a partnership in place to carry out the technical, educational and training aspects of the clean-up. The economic and social benefits go hand in hand with creating a work force that industry can use.

Gowanus Canal CDC already has mechanisms in place and does not have to invent them just to satisfy legislation. Gowanus Canal CDC recognizes that the problem is multi-disciplinary and that the solution requires a coordinated effort among and between several government agencies, educational and research institutions and industry. The proposed legislation can take advantage of the pre-existing entities. A Federal investment could draw additional commitments from New York State and New York City and one of our major private sponsors, Brooklyn Union Gas.

Thank you for the opportunity to appear before you today.

TESTIMONY OF SANDY McCOLLUM

DIRECTOR OF ECONOMIC DEVELOPMENT, SOUTHEAST COMMUNITY ORGANIZATION

Chairman Riegle, Senator D'Amato and distinguished members of the committee, thank you for the opportunity to appear before you today. I speak to you today not only as the Director of Economic Development for Southeast Development Inc., but also as one who has spent numerous years working toward the stabilization and revitalization of many of our aging commercial and industrial communities.

Once a leader in the rise of American industry through the first half of this century, Southeast Baltimore has also shared in the decline this nation has suffered in industry over the last several decades.

Southeast Baltimore has its economic roots embedded deeply in "heavy" industry. Firms such as the Bethlehem Steel Corporation's Sparrows Point Plant and the Broening Highway plant of General Motors Corporation still function in this capacity.

However, with the loss of such firms as Western Electric and American Smelting and Refining Company, Esskay Meat Products, accompanied by the downsizing of firms such as Eastern Stainless Steel and Armco Steel, this area has been impacted by overall changes occurring at both international and national levels. Stability in the manufacturing sector has declined. Companies often find that relocation is more desirable than renovation and automation is more cost effective by decreasing employee levels.

Even with the problem of some employment losses, the area is still Baltimore City's largest and most concentrated industrial area. Its importance is reflected by both the number of people employed here and in the amount of tax revenue generated. Estimates indicate that about 8,660 people work in the Canton Industrial area alone, with other scattered sites throughout the Southeast community.

Continuing decline in this area could seriously jeopardize Southeast's standing as a leader of industry. During the course of 1980-87 alone, 48 percent of the total jobs of the industrial area were lost. The closing of the Western Electric Plant eliminated 6,000 jobs at one time.

The loss of jobs is but only a part of this problem. There is also the loss of vast amounts of revenues. Only vacant sites remain where once productive industry provided moneys for Southeast Baltimore.

The potential benefits to the community and the economy through legislation are far reaching. This could begin to stimulate the economic activity within communities that now stand dormant. Increases in local tax revenues, the conservation of capital resources and the employment opportunities would stand to benefit us all. Job training programs to equip our work force and make it second to none.

With the redevelopment of now vacant industrial sites and the employment opportunities that would arise, the citizens of our area would directly benefit through an increase in per capita income. Buying power would be increased, home ownership would once again return to our communities, along with a rise in the population as people return to the areas of their employment. Southeast Baltimore has a population of 78,000 people, a substantial loss in population from years gone by. Many have been lost to other jurisdictions as they follow their employers or search out a job. According to the 1990 census, 23 percent of the Southeast residents have an income below the Federal poverty line compared to 22 percent in 1980. Redevelopment and employment opportunities are not the only answer, but its a good place to start.

With such an emphasis on the environment, many of the contaminated properties are overlooked for a "clean" location. Thus leaving many of our once viable sites and the adjacent properties to sit until someone will take a chance. The State of Maryland is currently considering a voluntary clean-up program to aid in funding of administrative expenses of State staff in reviewing and implementing such programs. The State has also exercised discretion in entering into suit cases against purchasers of contaminated sites where it was the prior owner and not the purchaser responsible for the condition. Maryland has also, occasionally extended credit to site purchasers, where part of the loan funds were used for clean-up. These initial programs are a step in the right direction, making these abandoned sites more acceptable for redevelopment and less risky. With initiatives such as these, accompanied by legislation the potential for redevelopment of our abandoned industrial sites becomes more real.

It is all too apparent that these idled sites are costing this nation with each passing day. Infrastructures that were built to service the industrial regions, not to mention sewage, utilities, and the list goes on. However the cost doesn't stop, maintenance continues. But at whose expense?

Unfortunately there are no quick fixes to a problem that has been growing over the years. But there are steps in the right direction. Senate Bill 299 is one of them, cooperation between the public and private sector is another. Communities need to get involved and urge their public officials to begin taking the initiative toward remediation.

Southeast Development Inc., along with several other local community based groups, some public officials and staff have begun this process. By identifying problematic areas and addressing each individually, with research, and recommendations, the "South East Plan" will come together in the fall of this year. One specific agenda item has been the industrial and port areas of Southeast Baltimore. Vast amounts of vacant land sites and underutilized properties have been identified. Opportunities such as combining several parcels and developing an industrial park, seeing how the city owned Holabird Industry Park has been a success and more businesses are interested in locating in the Southeast area.

Opportunity . . . the opportunities are there however what we need now are the incentives, accessibility to once taboo sites, and the ability to fund these undertakings. Senate Bill 299 may be the beginning to a resurgence of development in our industrial areas and a brighter future for many of our communities.

Thank you.

PREPARED STATEMENT OF SENATOR CHRISTOPHER J. DODD

First let me commend our Chairman for holding this hearing and for all of the hard work he has done on this legislation. I am pleased to be a cosponsor of this bill, and I look forward to working with Chairman Riegler and Senators Boxer and Moseley-Braun on this issue in the future.

The Abandoned Land Reuse Act addresses a critical issue facing communities across our Nation: How to redevelop underutilized industrial sites.

We all know the problem. Industrial facilities with rusting beams and broken windows sit idle in our towns and cities. The legacy of an earlier industrial generation, these facilities are usually contaminated with various pollutants. Residents of my home State of Connecticut are familiar with facilities such as Royal Business Machines in Hartford, Bryant Electric in Bridgeport, and the former Century Brass site in Waterbury.

The restoration and reuse of such facilities would not only clean up the environmental problems but would also increase the tax base, improve distressed neighborhoods, and create jobs. However, primarily because of environmental concerns, it has been very difficult for communities to find the investment capital needed to revitalize these facilities.

The Abandoned Land Reuse Act would provide help. The legislation authorizes grants by the Secretary of Housing and Urban Development to local governments or local nonprofit community development corporations for the redevelopment of abandoned industrial facilities that are located in economically distressed communities. To ensure that the local grantee has a sufficient stake in the project, the Bill requires the local grantee to contribute 25 percent of the costs of the site restoration.

It is important to note that this is not a new superfund program or an expensive new mandate. This legislation would simply offer a helping hand to those communities that are committed to the rehabilitation of their abandoned industrial sites.

I am particularly excited about the potential benefits from this legislation in my home State of Connecticut, where the public sector and the private sector are working together to address this issue. For its part, the State has recently developed a pilot program to assess environmental conditions at certain abandoned industrial sites.

I am pleased that we have Edward Parker from the Connecticut Department of Environmental Protection with us today. I am sure that he will provide insight into the ways in which the Abandoned Land Reuse Act would complement State efforts.

In addition to the efforts of the State government, the business community in Connecticut has also become involved. A good example is the work of Environmental Warranty, a company based in West Hartford, Connecticut. It has developed an environmental site assessment insurance policy that pays up to the value of the property if environmental contamination is discovered. By allowing investors and lenders to transfer the risk of undiscovered environmental contamination, this type of insurance will make the financing of redevelopment efforts much easier.

Clearly, the present efforts being made by State and local governments and the private sector would get a much-needed boost from the Abandoned Land Reuse Act. By providing additional capital and strengthening the partnership between the Federal Government and local communities, the legislation would stimulate the redevelopment process. And as the number of rehabilitated sites continues to grow, the comfort level of investors will increase.

Of course, the key benefit from this legislation will be jobs. Initially, as industrial facilities are restored, there will be new construction opportunities and environmental clean-up work. After the sites are converted, the companies that move into the improved facilities will bring new manufacturing jobs.

Clearly, this legislation offers exciting opportunities for our distressed communities. I look forward to hearing today's testimony and in helping to move this legislation forward.

Thank you.

RESPONSE TO WRITTEN QUESTIONS OF SENATOR RIEGLE FROM GREGORY PITONIAK

Q.1. To what extent are the contaminated sites that you referred to in your testimony economically abandoned, as defined in S. 299?

A.1. Contaminated sites have historically been abandoned without any prospect of environmental cleanup, let alone economic development. Instead of cleaning up and utilizing contaminated sites, abandonment has been the easy way out. Rather than rebuild and rehabilitate our cities and townships, State and local economic development policy has been encouraging greenfield growth which has devastated dozens of communities. Frankly, there has been little incentive to rehabilitate contaminated and abandoned sites.

Michigan's data base for the sites referred to in my testimony provides information to the level of identifying the site as "inactive." As mentioned in my testimony, of the 8,757 sites, 1,035 are listed as inactive. Inactive sites are defined as sites where a remedial action plan has not been approved by the Michigan Department of Natural Resources (DNR) and where evaluation, interim response activity, remedial actions, and/or operation and maintenance *have not* been undertaken. Every county in the State has one of these inactive sites.

All of these sites, at a minimum, meet the definition of "economically abandoned" as defined in S. 299 Sec. 903 (C) "that has one or more conditions, constraints, or characteristics (other than only being a type of facility with respect to which market supply exceeds demand) that are detrimental to the public health, safety, or welfare and, in the absence of assistance under this title, prevent or materially discourage the timely redevelopment or reuse of a facility or real property immediately adjacent to the facility for a use or uses that include the provision of employment opportunities in accordance with applicable community development strategies."

Information beyond identifying the site as "inactive" is limited. Observations made by the staff responsible for gathering the data include:

- Financing for redevelopment of an "inactive" contaminated site is almost impossible to obtain. Lenders are leery of providing loans to redevelop a property without full knowledge of the future liability that might be incurred.
- Many of these sites are located in communities that suffer from economic and social distress as defined by S. 299.

The Michigan Department of Commerce has compiled a list of industrial and commercial sites that are available for sale or lease. This list is utilized in providing assistance to businesses interested in purchasing property for a new business or expansion of an existing business. These properties are either empty or partially empty. There are 1,425 sites listed. These sites are located throughout the State and are clearly underutilized. There has not been a cross-check with the DNR data to identify whether any of these sites are contaminated.

Q.2. Do you have any question that the roads, railroads, waterways, water, sewer, gas, electric, and other public or private utilities and infrastructure that serve abandoned industrial and commercial facilities or sites continue to be economically useful assets?

A.2. See attachment, *House Democratic Economic Reinvestment Strategy*.

Q.3. If we do not determine ways to reuse abandoned industrial and commercial sites: (a) Can business expansion and credit needs of persons wanting to operate businesses in distressed communities—particularly small businesses—be met? (b) What will happen to the financial condition of local communities? (c) What are the economic consequences for the residents of our distressed communities?

A.3.(a) Failing to recycle or reuse abandoned and underutilized industrial and commercial sites would have an adverse effect on business expansion within a given community. Small businesses, in particular, need the credit assistance and opportunities that the reuse of abandoned industrial and commercial sites would provide. Many small businesses are a part of local programs that use abandoned and underutilized infrastructure as incubator buildings to help foster the infancy of these businesses. Businesses pay a start-up fee, while the rest is subsidized by the local government. This program has successfully fostered numerous viable community businesses. Thus, it is clear that adopting a policy that works with businesses in reusing abandoned industrial and commercial sites would be very advantageous for small businesses.

A.3.(b) The financial condition of local communities is directly and indirectly affected by the reuse of abandoned industrial and commercial sites. Without a policy that advocates and encourages redeveloping and reusing commercial and industrial sites, many communities will continue to face a deteriorating tax base and subsequent financial hardship. Recycling these sites provides job opportunities, a stronger tax base, local business growth and development of the community.

A.3.(c) The lack of an abandonment reuse development policy has numerous effects on the residents of these distressed communities. Jobs that would be created with such a policy would not exist. Without jobs these communities would subsequently suffer the social conditions that often follow a lack of opportunity, i.e., crime, housing depreciation, a decreased standard of living, etc.

Q.4. Is it feasible to incorporate job training opportunities into the projects to be assisted under S. 299?

A.4. Yes. The prospect of utilizing abandoned buildings provides a unique opportunity in the job training arena. A prime example of this can be seen in Detroit where old warehouses and factories have been rehabilitated to provide high-tech job training to inner-city residents. Called "Focus Hope" by its founder, Father William Cunningham, hundreds of inner-city men and women have been provided job training opportunities in high-tech industrial machining. Duplicating this approach in the inner city will not only allow for easy access training, but also allow for comprehensive day care and health care for those who participate.

Q.5. Is it feasible to increase the non-Federal share of financing reuse projects above the 25 percent S. 299 requires?

A.5. Michigan is poised to face its obligation in dealing with this critical issue. As a recognized leader in this arena, we are willing

to listen to any and all proposed options that can better facilitate the reuse and redevelopment of commercial and industrial sites. However, the feasibility of increasing the non-Federal share of financing reuse projects would greatly depend on other funding sources to finance these projects.

Q.6. Are commercial lender likely to participate in the financing of the reuse projects S. 299 contemplates?

A.6. Commercial lenders would participate in the financing of reuse projects. Adequate capitalization and security from other sources would need to be present and, obviously, a reasonable expectation of a fair return on investment. Commercial lenders might have some concern over the extent of liability for the condition of the project that resulted from previous use. Beyond that, however, indications are that financing from the private sector would be available in Michigan.

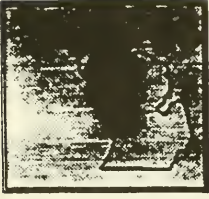
RESPONSE TO WRITTEN QUESTIONS OF SENATOR BOXER FROM GREGORY PITONIAK

Q.1. As you know, California is going through a painful period of conversion away from military and to civilian industries. Although S. 299 does not allow funding for government facilities, there are private industrial sites which have been in defense production in California that will need to be cleaned up to be converted to civilian purposes. Do you see a role for the State government to coordinate with Federal efforts to help ensure that these sites are cleaned up?

A.1. Local, State and Federal governments all need to play a role in cleaning up sites that can and should be reused for economic development. The efforts to clean up are fundamentally crucial to each level of government. Failure to conduct a coordinated effort would neglect the potential of too many of our resources that may otherwise go unutilized.

Right now, the most fundamental problem regarding abandonment is the problem of deterioration and liability. By the time the government gets to the abandoned site, deterioration has affected the building too heavily for efficient rehabilitation. To further exacerbate the problem, many businesses do not want to assume liability associated with taking over a contaminated site. Government must provide the security to individual businesses that liability will not be incurred. A coordinated effort and commitment would go a long way in relieving these fears and many other concerns and needs.

House Democratic Economic Reinvestment Strategy



There is a revolution occurring throughout the world. Today, more than ever, there is intense competition for markets globally. New technology is also expanding more rapidly than ever. The private sector is making radical changes in its organizational and decision making structures. The objective is to maximize productiveness as the chief method of obtaining a competitive advantage in this global competition.

The public sector is not immune from these dramatic changes. Such change is inevitable. The fundamental question is: What form shall that change take? In other words, "How can Michigan regain its competitive advantage?"

(see chart #1 - Primary Sources of Economic Growth)

The answer is investment — not disinvestment — to assure our long-term prosperity. First, we must make an investment in physical capital, both public and private. And second, the state must make an investment in the labor force. It would be a mistake to emphasize the current recession and ignore the long-term pattern of economic deterioration in our state. There is an unmistakable connection between the investments that the public sector makes in its infrastructure and workers and the capacity of a state to create jobs. It is the skills of a state's workforce and the quality of its infrastructure that make it attractive to private investment.

The most fundamental challenge confronting Michigan is how best to generate private sector economic growth. Labor force skills and infrastructure are crucial factors necessary for a growing economy.

(see chart #2 - The Status of Michigan's Middle Class)

According to the Congressional Budget Office, the wealthiest one percent of families received 70 percent of the increase in average family income between 1977 and 1989.

(more)

Historically, differences among income groups have stayed fairly constant -- but all of that changed in the 1980s.

The standard of living for Michigan's middle class is rapidly declining. Even though total Michigan per capita income increased 6.8 percent after inflation between 1973 and 1990, that portion of total personal income derived from wages and salaries -- the major sources of income for Michigan's middle class -- declined. At the same time, interest, dividends and other non-salary and wage income soared for the wealthiest five percent of the population.

The decline of our middle class hurts Michigan's economic health. Most of our consumption of goods and services comes from salaries and wages. When this source of income declines, our capacity to spur economic growth through consumer spending also declines. It is a pattern that feeds on itself and, over time, the state's economy is less able to grow and compete.

The decline of middle-class living standards in Michigan must be addressed -- and now.

(see chart #3 -- Growing Number of Children in Poverty)

A comparison of the changes in poverty rates among the states from 1979-1990 provides further disturbing evidence of the deterioration in the well-being of Michigan's population.

The poverty rate for all Michiganians increased the most among the industrial states from 1979 -- jumping 40.2 percent compared with 19.4 percent for the industrial states and 11.6 percent for all states. However, even more disturbing is what is happening to our labor force of the future -- our children. Poverty among Michigan's children has grown by over 80 percent during this period -- to the point that approximately one out of every four of our state's children currently lives in poverty. Among black children, the situation is far worse -- with over 50 percent now living in poverty. If indeed our children are the future, that future is not currently shining very brightly.

(more)

(see chart #4 – The Vicious Circle Confronting the Michigan Economy)

Declining public infrastructure and workforce investment are important factors explaining these trends in Michigan's economy. The pattern in Michigan is a vicious circle of decline where insufficient public investment leads to lower productivity -- and lower productivity leads to lower wages.

As a result, economic growth is stagnant and we are confronted with a population that is poorer and more dependent, while economic growth is insufficient to provide for adequate investment, and so the circle continues. Michigan's future economic vitality depends on breaking this vicious circle! How do we do this?

(see chart #5 – Reagan/Bush Infrastructure Disinvestment)

We must reject the Reagan-Bush disinvestment strategy. Tax cuts for the wealthy and the resulting massive federal budget deficit have ruined our ability to invest in our future.

Under Reagan-Bush, federal grants to state and local governments for infrastructure investment fell by \$5.6 billion, or 30.5 percent. Infrastructure investment as a percentage of the federal budget fell from 4 percent in 1978 to 2.1 percent for 1990 -- down nearly 50 percent. Included in these cuts are grants for our highways, airports, community development, and local infrastructure.

Unfortunately, the federal government is spending more today than in 1980. But rather than investing in our infrastructure, our tax dollars go to pay interest on the debt. This shift helps explain the tremendous growth in interest income for the wealthy and the growing joblessness among our state's middle class.

(see chart #6 – Michigan's Lagging Infrastructure Investment)

Michigan's infrastructure investment lags behind all industrial states and falls well below the average for the United States. Michigan actually invested less per capita in 1989 than it did in 1978. **

(see chart #7 – Infrastructure Investment Compared to Economic Well-Being)

This pattern of disinvestment has devastated our state's economic growth. When comparing the level of infrastructure investment with the level of economic well being --

(more)

such as income, unemployment, and poverty levels -- the pattern is clear: the higher the investment, the higher the economic well being. The lower the investment, the lower the economic well being.

Michigan and New Jersey provide the most revealing contrast. New Jersey ranks highest among the states in both investment and economic well being. Michigan ranks last on both.

(see chart #8 -- Michigan Firms Reporting Shortages of Skilled Workers)

Investment in our workforce is also crucial. The modern industrial economy needs skilled, educated workers. Michigan firms report shortages of workers with the appropriate skills. In one survey, firms reporting shortages of skilled workers ranged from 43 percent for large companies to 83 percent for small businesses. Remember, small businesses create most of our new jobs. If small businesses cannot find enough trained workers, then those businesses will not grow.

(see chart #9 -- Job Training Cuts)

How do we meet this challenge? By educating and training our workforce. But from 1990 to 1992, Governor Engler cut job training by 18.3 percent. Under Reagan-Bush in the 1980s, job training fell by 21 percent.

We need a plan that restores hope. House Democrats are proposing a comprehensive economic reinvestment strategy that will do just that, and more. The House Democratic economic reinvestment strategy will:

- * **Begin now to invest in Michigan's infrastructure needs, and reduce the number of unemployed workers in Michigan by 25 percent, creating 100,000 new jobs by the close of 1993.**

- * **Enact a comprehensive job training strategy with the infrastructure investment program.**

- * **Commit to the creation of Michigan job academies in the fiscal 1993 budget, dedicated to improving the skills of all workers aged 16-54.**

- * **Reduce dependency and poverty through infrastructure investment, providing worker skills and real economic growth -- JOBS!**

The message of the House Democratic economic reinvestment strategy is fundamental: A prosperous future requires a real commitment to that future. There are no shortcuts or simple solutions. Our future depends on this new commitment of reinvestment. Together, we can reinvest in Michigan and restore our prosperity.

Primary Sources of Economic Growth

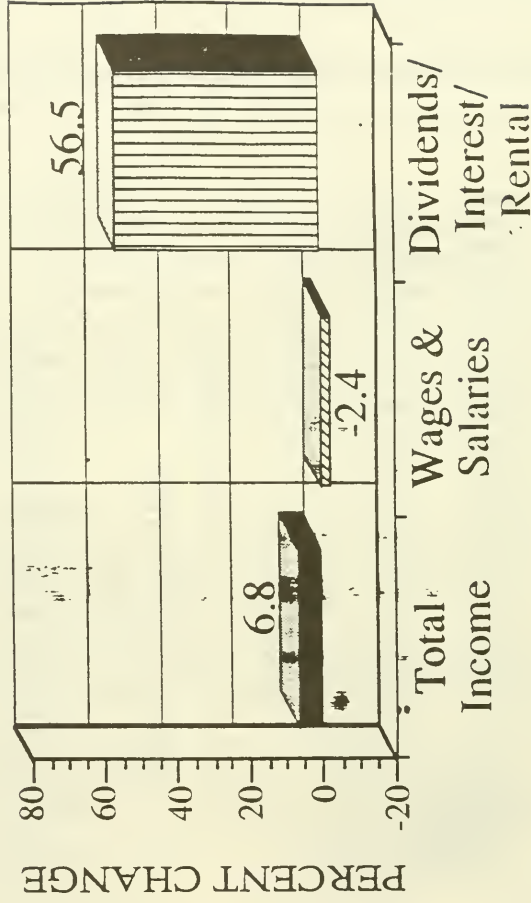
- Investment in Physical Capital

- Public and Private

- Investment in the Labor Force



The Status of Michigan's Middle Class

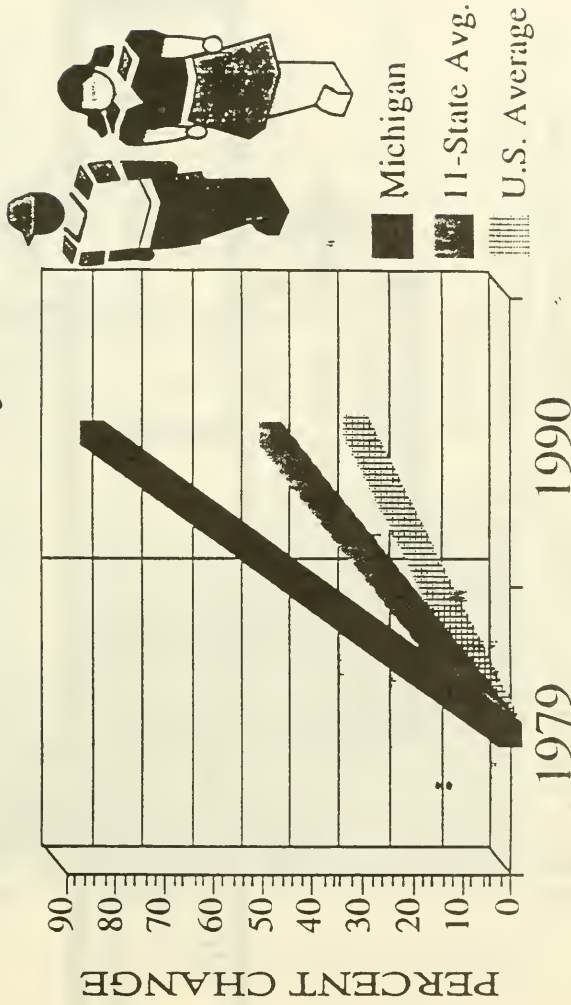


• Middle class income falls; investment income for wealthy skyrockets

Chart 2

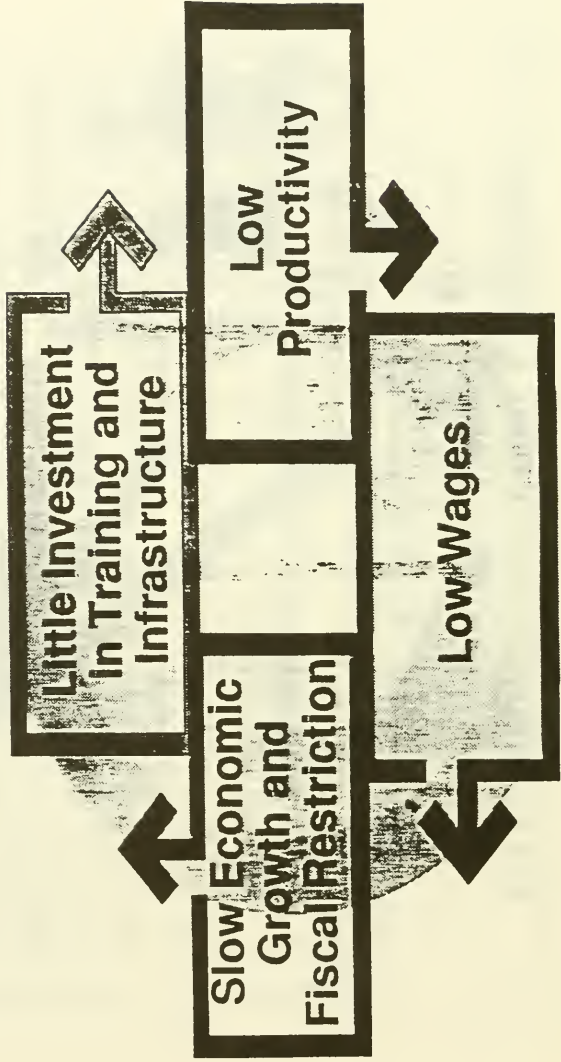
Growing Number of Children in Poverty

Chart 3



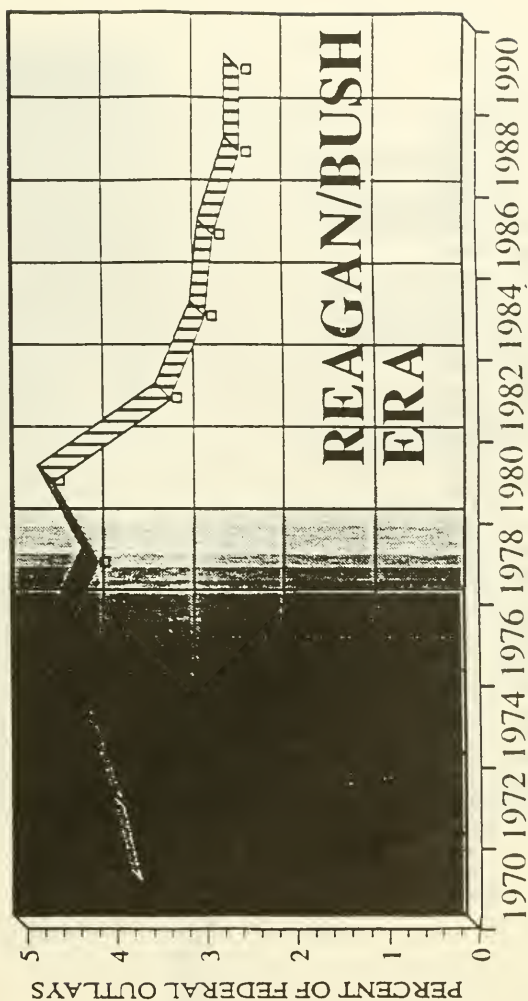
The Vicious Circle Confronting the Michigan Economy

Chart 4



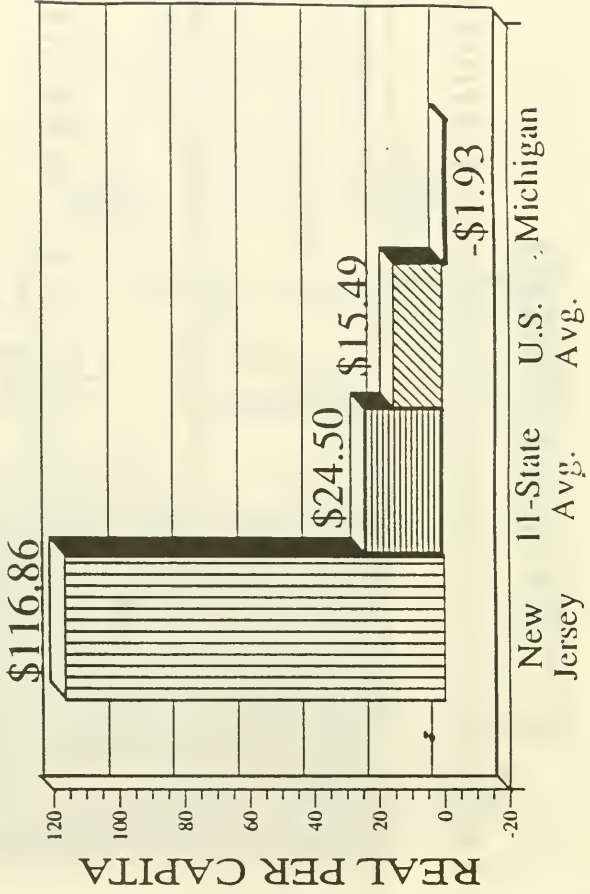
Reagan/Bush Infrastructure Disinvestment

Chart 5



Michigan's Lagging Infrastructure Investment

Chart 6



Infrastructure Investment Compared to Economic Well-Being

Chart 7

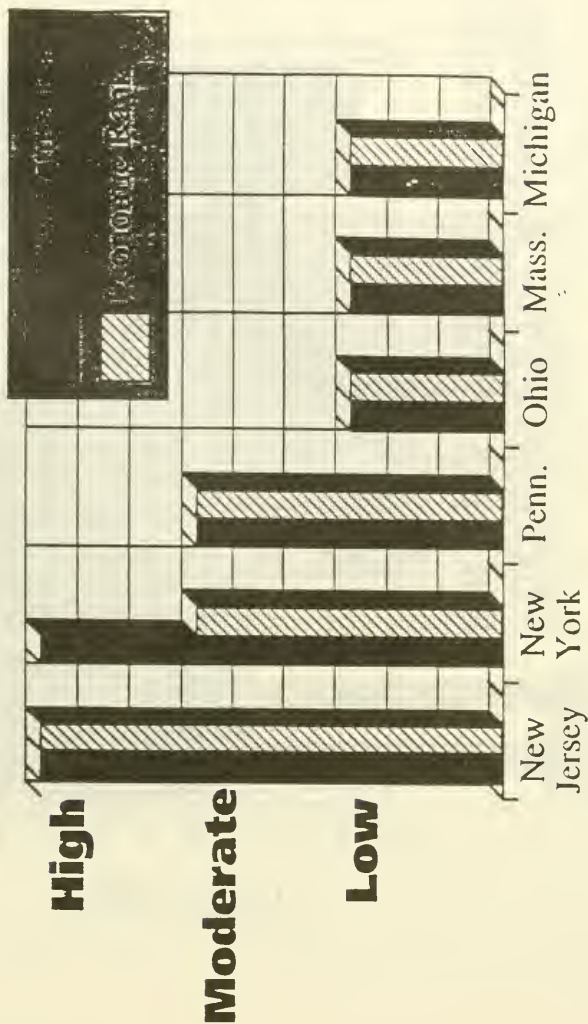
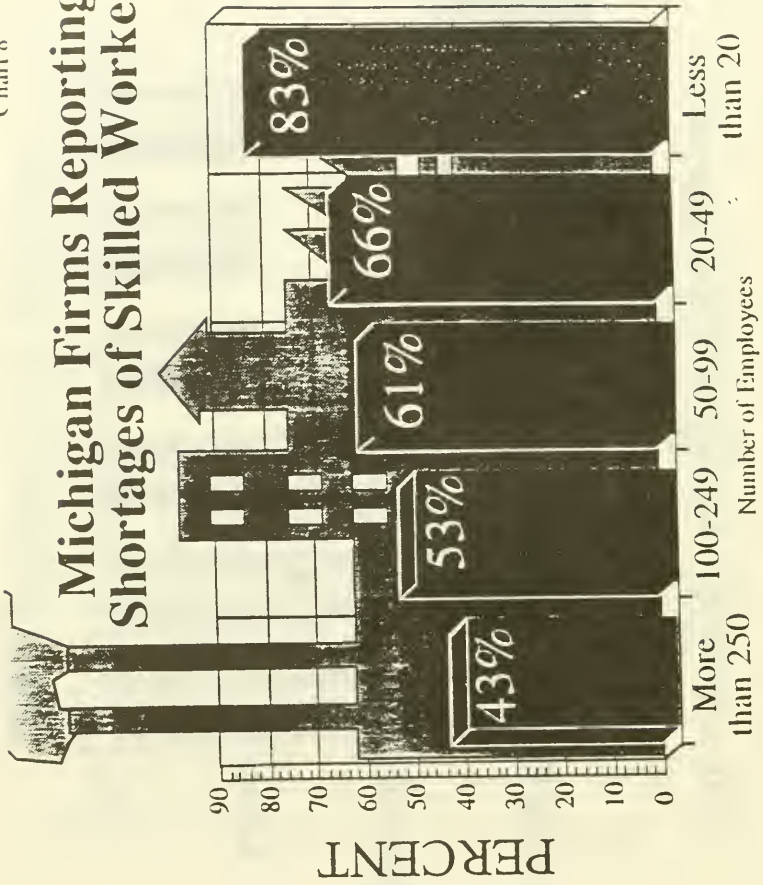


Chart 8

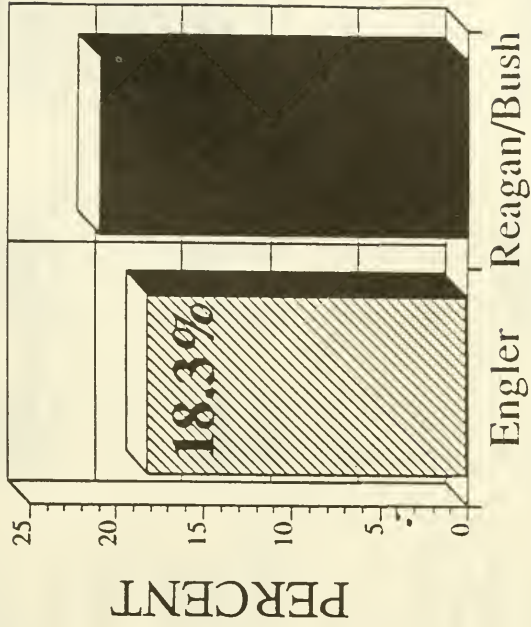
Michigan Firms Reporting Shortages of Skilled Workers



• Michigan firms need trained workers.

Job Training Cuts

Chart 9



PROPOSAL	BILL	SPONSOR	STATUS
PHYSICAL INFRASTRUCTURE			
Infrastructure investment for public transportation			PA 224 of 1992
Structural Infrastructure			PA 224 of 1992
K-12 infrastructure repair	HB (HB 6162)	Rep. Gubow Rep. Gubow	Not yet re-introduced House Taxation Committee
College and university infrastructure repair; community college special maintenance	HB 4083/4147 NY 1993-94	Rep. Profit Governor Engler	House Taxation Budget Recommendation Committee
HUMAN INFRASTRUCTURE			
<u>Job Training</u>			
Job training/education education programs that lead to meaningful employment	HB 4505 (HB 4165) HB 4018 SB 140-141	Rep. Keith Rep. Keith Sen. DeGrow	House Education House Education House Human Services & Children
<u>Welfare Reform</u>			
Provide transitional benefits like child care, transportation, health care for those	HB 4142 HB 4605 (HB 5865)	Rep. Gire Rep. Lowe Rep. Gire	House Human Services & Children House Human Services and Children House Social Services and Youth

leaving the roles for employment	1993-94	DSS Budget	Executive Recommendation
Assistance for truly "unemployable" people who do not meet definition of disabled	HB (HB 6154)	Rep. Gire Rep. Emerson	Not yet re-introduced House Social Services and Youth
Establishing paternity	HB 4139 HB 4140	Rep. Gire Rep. Horton	House Human Services & Children House Human Services & Children
Child Support Enforcement	HB 4135-38	Reps. Baade, Gire,	House Floor
Provide information on child care assistance.			The Michigan Community Coordinated Child Care (4C) Association in East Lansing. Call (517) 351-4171 for Regional office. DSS is required to indicate availability of child care
Increase public assistance to families to the poverty level Increase public assistance and emergency needs for personal needs assistance.	HB 4142 (HB 5864)	Rep. Gire Rep. Gire	House Human Services and Children House Social Services and Youth
Implement Social Contract	SB 142	Sen. Geake	Senate Mental Health Committee
Reinstate income offset for AFDC	HB 4142	Rep. Gire	House Human Services and Children
Housing and Enterprise Zones Infrastructure investment for rehab of single and multi-family	HB (HB 4835)	Willard, Bennane Rep. Emerson Rep. Emerson	Not yet re-introduced House Housing and Urban Affairs

dwelling				
Memorialize Congress to maintain mortgage interest	IIICR 48	Rep. DeLange		Adopted 5/13/93
Request state agencies to include a housing impact study when applicable	IIICR 49	Rep. DeLange		Adopted 5/13/93
Job Training and Retraining				
Encourage private industry in retraining employees	IIB 4018 IIB 4575 (IIB 5165) (IIB 6131) (IIB 6132) (IIB 6133)	Rep. Keith Rep. Profit Rep. Keith Rep. Jonker* Rep. Jonker* Rep. Jonker* Gov. Engler	House Education Committee House Labor Committee Senate Education Committee Not yet re-introduced Not yet re-introduced Not yet re-introduced Executive order, 1993	
Tuition waivers for advanced education				
Coordinate all state job training of programs	IIB (IIB6024)	Rep. Hollister Rep. Kosteva*		Not yet re-introduced, but provisions of IIB (6024) implemented through four 1993 executive orders by Governor
	(IIB 6024)	Rep. Kosteva*		Provisions passed as line items.

Health Care

Provide basic health care

HB 4740	Rep. Hollister	House Public Health
HB 4741-4752	Reps. Bennane, Stallworth	House Public Health
(HB 6130)	Rep. Hollister	House Public Health
(HB 5212)	Rep. Bullard	House Public Health

Provide basic health care for children

HB 4510	Rep. Gire	House Appropriations
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*No longer a member of the Legislature
 () - bills introduced last session that were not enacted

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RESPONSE TO WRITTEN QUESTIONS OF SENATOR RIEGLE FROM EDWARD PARKER

Q.1. To what extent are the contaminated sites in your State economically abandoned, as defined in S. 299?

A.1. Many of the contaminated sites in Connecticut are economically abandoned, as defined in S. 299. Connecticut has 29 municipalities that are defined as "distressed" under Section 32-9p Connecticut General Statutes (copy attached). The criteria in Section 32-9p is similar to that in Section 907(a)(4) of S. 299. Most of our abandoned or underutilized sites are located in these 29 distressed communities. For example, there are 325 contaminated sites awaiting an environmental review in our property transfer program. Of these 154 are located in distressed communities and 104 of the 154 are located in our 4 largest cities (Bridgeport, Hartford, New Haven and Waterbury). Each of these cities were once vibrant manufacturing centers. Today these communities experience continuing economic decline which is attributable in part to the abandonment or underutilization of many industrial/commercial sites.

Q.2. If we do not determine ways to reuse abandoned industrial and commercial sites:

Q.2.(a) What are the consequences upon the ability of local communities to fund their compliance obligations under the State Drinking Water Act, the Clean Water Act, and other Federal and State environmental statutes?

Q.2.(b) To what extent would infrastructure investments that have already been made to improve the environment be inefficiently utilized?

A.2.(a) In general, if abandoned industrial and commercial sites are not reutilized, municipalities may have more difficulty in achieving their obligations under Federal and State environmental statutes. However, it is difficult to quantify any impact.

For example, under the Federal Clean Water Act many municipal governments have in place a user fee system that generates revenue to fund operation and maintenance costs of the sewage treatment plant (STP). With an increasing number of underutilized or abandoned industrial/commercial sites the cost to operate and maintain the STP is borne by the remaining users, in particular residential. Residential and remaining businesses will bear an increased cost as businesses move away and industrial sites remain vacant. It is possible that sufficient revenue may not be generated to cover all operation/maintenance expenses although I am not aware of any such instances. The reuse of these abandoned/underutilized sites will generate additional revenue to help ensure that all operation/maintenance costs are covered.

A.2.(b) In general, infrastructure improvements would not be efficiently utilized. However, it is difficult to quantify any inefficiencies. For example, many wastewater collection and treatment facilities in our major urban areas have excess design capacity and could easily accept additional discharges. However, with the continued abandonment and underutilization of industrial/commercial sites the infrastructure improvements already made with Federal

and State funds to upgrade treatment plants and wastewater collection systems will be underutilized.

Moreover, there is pressure to extend infrastructure to outlying areas, because businesses prefer a suburban location. A major effort should be undertaken to utilize the infrastructure improvements already made in our urban areas and avoid unnecessary expansion when sufficient design capacity is already in place.

Q.3. It is feasible to incorporate job training opportunities in environmental restoration/technology into the projects to be assisted under S. 299?

A.3. It will be very difficult to incorporate job training opportunities in environmental restoration/technology into projects assisted under S. 299. There are many environmental firms that already have adequate staff that are not fully utilized due to the economic slow down. Consequently, there is not a large demand for these jobs and they would tend to be short term.

I would recommend that job training initiatives be considered after a site is remediated. If sites are reused skilled and unskilled labor will be needed for the new or expanded businesses. A job training program especially for the unemployed in urban areas could be incorporated in this way.

Q.4. It is feasible to increase the non-Federal share of financing reuse projects above the 25 percent S. 299 requires?

A.4. An increase in the non-Federal share of financing reuse projects above 25 percent is likely to be feasible for the State of Connecticut as we already have bond funds in place to undertake site assessment and remediation projects. However, it is likely that a match exceeding 25 percent for other States, local governments and other entities may not be feasible. Any increase in match could significantly limit the number and type of projects to be undertaken. I would recommend that the match requirement be left at 25 percent.

Q.5. Are commercial lenders likely to participate in the financing of the reuse projects S. 299 contemplates?

A.5. Yes, commercial lenders are likely to participate. The key impediment to financing business development has and continues to be the concern that financial-institutions have regarding "unknown" environmental issues. Once the environmental problems at a site are defined and/or remediated, lenders can evaluate a financing request based upon the merit of the project and the financial strength of the applicant.

RESPONSE TO WRITTEN QUESTIONS OF SENATOR BOXER FROM EDWARD PARKER

Q.1. Do you see a role for the State government to coordinate with Federal efforts to help ensure that these sites (private industrial sites formerly used for defense production) are cleaned up?

A.1. Yes, I do see a role for State participation. On the most basic level, the State is the primary custodian of the environment and the public health at and in the areas around these sites. Similarly, the State has a significant interest in the economic impacts associ-

ated with either the abandonment or productive reuse of these properties.

In addition, the State has a regulatory role in overseeing the clean-up of these sites. Under the Connecticut Clean Water Act, in particular Sec. 22a-432 and Sec. 22a-433 of the Connecticut General Statutes, the Commissioner of Environmental Protection has the authority, and therefore the responsibility, to require the investigation and remediation of sites which are a potential or actual source of pollution to the waters of the State. Similarly, under Connecticut's Property Transfer Law, Sec. 22a-134 of the Connecticut General Statutes, hazardous waste establishments which undergo a transfer of ownership must be cleaned up in a manner approved by the Commissioner of Environmental Protection.

Connecticut has and will continue to coordinate remedial activities with our Federal counterpart USEPA as necessary to ensure that private industrial sites formerly used for defense production are cleaned up in a timely manner and in accordance with both Federal and State clean-up requirements.

Gowanus Canal Community Development Corporation

SALVATORE "BUDDY" SCOTTO
President

515 Court Street
Brooklyn, New York 11231
(718) 858-0558

July 21, 1993

United States Senator
The Honorable Donald W. Riegle, Jr.,
Chairman, The Committee on Banking,
Housing and Urban affairs
Washington, DC 20510-6075

Dear Honorable Donald W. Riegle, Jr.,:

I am enclosing answers to the questions that you have asked regarding the Abandoned Land Reuse Act of 1993. I want to take this opportunity again to thank you and your Majority Staff Counsel Mr. Clement Dinsmore who has been extraordinarily helpful, inspiring and knowledgeable.

The information that I have gathered to answer your questions are attributable to Professor Philip Kasinitz, author of a book soon to be published on Red Hook, and New York University's Urban Research Center's associates Hugh O'Neill and Holly Haff. Professor Kasinitz's early research which has proved to be very useful to me is entitled Red Hook: Urban Space and the Underclass. NYU's Urban Research Center's publication is called Flexible Economic Development: A New Approach to the South Brooklyn Waterfront.

Thank you very much for the opportunity to participate in the process of your emerging new legislation from the Committee on Banking, Housing and Urban Affairs.

Sincerely,

Maureen McManus

Maureen McManus
Executive Director

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RESPONSE TO WRITTEN QUESTIONS OF SENATOR RIEGLE FROM SALVATORE "BUDDY" SCOTTO

Q.1. To what extent are the contaminated sites in the Gowanus Canal/Carroll Gardens/Red Hook areas of Brooklyn economically abandoned, as defined in S. 299?

A.1. The Gowanus Canal area, Red Hook and Carroll Gardens are loosely referred to as South Brooklyn. (See Exhibits I *Location Map*, *Neighborhood Map*, and *Study areas*.) Over the past forty years the Gowanus Canal area and the waterfront community of Red Hook underwent vast changes from once thriving neighborhoods of wharfs, homes, and and water dependent industries to acutely marginal enclaves of the very poor. The people of South Brooklyn once played a central role in New York's industrial economy and shared a dependence on the waterfront industries. Containerization and automation had decreased the industrial economic viability of South Brooklyn. The Port of New Jersey where larger facilities in Newark and Elizabeth that were better suited to container handling benefited from the new shipping technologies and the dependence on trucking for the transporting of goods.

Influenced by global changes in transportation technology, manufacturing processes, business location, and shifts in the economy has virtually diminished Brooklyn's great maritime history. Deindustrialization, racial transformation, and shifts in the urban economy clearly all contributed to the economic and social and geographic isolation of the people of Red Hook. As a result, Red Hook has become a reservation of those outside the mainstream economy.

Surrounded by water on three sides and cut off from the rest of Brooklyn by an elevated highway, "Red Hook is perhaps America's clearest manifestation of socially isolated urban poverty." Red Hook's isolation from the rest of the city was less critical in the decades when the community was sustained by its own industrial economy.

The departure of so much of Red Hook's population, reduced from 22,060 in 1950 to 11,676 in 1980, has negatively impacted on the neighborhood. The working class residents who left also took with them many of the neighborhood's churches, stores and other community institutions. The housing became increasingly dilapidated and the waterfront area became increasingly desolate and ravaged by drugs and violence. The crime and drug problems that plague the nation's first federal housing project were tragically manifested in December 1992 by the killing of public school principal Patrick Daly. The fear of crime also seems to have become a paralyzing and isolating factor in the lives of many residents.

The problems of Red Hook are stagnation, isolation and despair. More than 40 percent of the Red Hook residents of the largest housing project in New York City have incomes below the poverty level, and most live in 2,500 units of public housing in 25 brick buildings on 67 acres. About 46 percent of the area receives public assistance. The ethnic composition from in the Red Hook projects are 67 percent African American, 31 percent Hispanic and less than 2 percent white. Unemployment and labor force nonparticipation remain chronic problems. Social isolation both

contributes to, and is reinforced by, the low education levels and sporadic work histories of many Red Hook residents.

The waterfront of South Brooklyn has vast publicly held acreage that is vacant, deteriorated, and underutilized. (see Exhibits 2) *Use of Waterfront Lots and Gowanus Canal area*. Privately held lots account for 46 percent of the total number of lots in the South Brooklyn Waterfront. Lots that are held by public agencies, are in rem, or are being taken by the city account for 45 percent. As Exhibit II indicates 36 percent of the land is vacant. This statistic, moreover does not convey the extent to which properties identified as being used for such purposes as marine terminals or warehousing may be significantly underutilized. The consequences of not getting vacant public land back into productive use are aggravated by the failure to maintain it properly. As a result, some will require substantial reinvestment before they can be reused for any purpose.

The Gowanus Canal is surrounded by largely residential and abandoned and underutilized manufacturing properties. Some of the lots are junk yards for abandoned automobiles and New York telephone, Con Edison and Department of Sanitation vehicles. North of the underutilized, low-income potential, and low-level valuation for industrial properties abutting the canal is a housing project called the Gowanus Houses. The Gowanus Houses which include 16 buildings and 1,139 total units are just one mile east of the Red Hook Houses. The average annual income at Gowanus Houses is \$11,633 whereby 53 percent of the residents are receiving public assistance. The ethnic composition is 37.7 percent Hispanic origin and 60.9 percent African-American.

The decline in both manufacturing and maritime employment contributes to the decline of the surrounding neighborhoods. Although, Red Hook Houses and Gowanus Houses contrast sharply with that of the adjacent neighborhood of Carroll Gardens. Once considered part of Red Hook, but was separated by highway construction in the 1950's, Carroll Gardens received a large influx of new middle class residents since the late 1960's. This has stimulated retail activity and in some cases the conversion of industrial spaces to residential use. The side by side coexistence, however unacknowledged, throws into sharp relief the patterns of daily life in an increasingly polarized urban America.

The legacy of changes over the past forty years is a waterfront and Canal that suffers some of New York's most daunting social and economic problems, but that still retains many strengths on which a promising future might be built.

Q.2. If we do not determine ways to reuse abandoned industrial and commercial sites:

Q.2.a. Can the business expansion and credit needs of persons wanting to operate businesses in distressed communities—particularly small businesses—be met?

A.2.(a) The need to create a new waterfront and develop other industries is evident. The old industrial waterfront cannot be recreated. The entrepreneurial energy of local business people is one of the Brooklyn waterfront's most important assets. One of the

most notable examples of this energy has been the acquisition and redevelopment of an old brick warehouse structure on Pier 41 in Red Hook by a local businessman. This previously derelict structure was recycled without public subsidies or support. It now houses a variety of commercial and industrial enterprises, and could serve as an important catalyst for further redevelopment.

New environmental processing technologies that are engaged in taking what is now a waste product and putting it to beneficial use could create businesses. Waste management activities are new economic development opportunities with spinoff industries that boosts the economy. The benefits of merging job development and environmental engineering, and education application puts together an industrial, education, and environmental alliance.

A small industry augmenting a business that has developed alternative technologies to landfilling and ocean dumping of harbor sediment in the Gowanus Canal is part of a consortium that includes the Gowanus Canal Community Development Corporation and other community groups, government university labs and governmental agencies. Gowanus Canal Community Development Corporation is embarking on this pilot project sampling and vitrifying 5 gallons of the sediment at the bottom of the Gowanus Canal for beneficial remediation and job creation by converting the sediment to construction products such as tiles.

The Gowanus Canal clean-up has enormous economic possibilities for making products from waste management activities and technologies. New York City's Department of Environmental Protection is a potential obstacle to such an environmental/economic beneficial remediation project if it doesn't begin to look at dredging in other than the traditional ways of landfilling and ocean dumping.

The Abandoned Land Reuse Act of 1993 could address these very serious economic development and environmental issues.

Without some inducement of activity from the national government, what could happen might never happen. The primary benefit of zone designation is funding priority for various Federal grant programs. The Enterprise Zone has attained a certain legitimacy as a cost-effective job-generation economic development tool. The Abandoned Land Reuse Act of 1993 addresses the impacts of economic development policy, urban housing dynamics, and urban land use.

Q.2.(b) What will happen to the financial condition of local communities?

A.2.(b) If there is no reuse of the abandoned industrial and commercial sites, anarchy will continue to flourish in these very poor, despairing and under-used areas. It will only be a matter of time before areas like Red Hook and Gowanus Houses ignite in the face of no leadership or activity to resurrect them.

Q.2.(c) What are the economic consequences for the residents of our distressed communities?

A.2.(c) A continued downward mobility in our poorer sections of urban America.

Q.3. Is it feasible to increase the non-Federal share of financing reuse projects above the 25 percent S. 299 contemplates?

A.3. What is needed is a serious commitment on the part of New York State and City to look at these very serious reclamation issues and adaptive reuse of land. **A rational, business and economic approach to redevelopment issues is needed.**

Q.4. Are commercial lenders likely to participate in the financing of the reuse projects S. 299 contemplates?

A.4. The Abandoned Land Reuse Act of 1993 allows for an opportunity for the Gowanus Canal Community Development Corporation to continue its efforts in the redevelopment of abandoned lands surrounding the Gowanus Canal. In the past, The Gowanus CDC has successfully been able to structure several conversions of old manufacturing industrial buildings into adaptive reuse. One such ten story factory called the Doehler Dye Factory Building was converted into a 126 unit moderate income cooperative housing complex. The Gowanus Canal CDC has been able to accomplish adaptive reuse and demonstrate our ability to develop the gradually but definitely derelict sites by securing a 1.6 million dollar participation loan from the city of New York. The Gowanus Canal CDC launched this successful effort and effected the necessary zoning changes and zoning variances.

The Gowanus Canal CDC was also instrumental in leveraging funding for 101 units of senior citizens housing only one block from the Gowanus Canal. This location formerly housed a multi story ribbon manufacturing factory that was abandoned. The Site was placed on the commercial market and had no takers for years. The Gowanus Canal CDC was able to integrate redevelopment efforts to improve the community's quality of life.

We constantly see the inability of human service agencies, economic development organizations, the education bureaucracy, real estate developers to communicate and work with each other. Local Development Corporations are dirt cheap investments and cost-effective investments. Most of the people who staff these organizations pay no attention to the clock. They work overtime in order to achieve neighborhood revitalization.

Funding local groups is a precondition for the stability and growth of the city's neighborhoods—of the city itself. LDC's are the repositories of teaching the skills to fend off neighborhood decay and local ownership is at the heart of community stability and growth. LDC's are the only institutions able to strengthen local economies, promote local ownership and demand the proper respect for public property.

Local Development Corporations are the natural intermediaries to channel and assemble outside funding. The key point is that LDC's are now the logical and incontrovertible bridge between neighborhood opportunities and funding sources. Equity money is a necessary element to create mechanisms whereby they become consequential players. LDC's can recycle the funds for projects and program expansion taking an unusable site and turning into a developable piece of property. As the case cited above indicate, our Community Development Corporation has documentable evidence

taking a piece of property that had negative value and wound up getting major investment backing for housing and job creation.

Q.5. Do local governments have sufficient jurisdiction over community redevelopment activities to be assured that projects undertaken by non-profit community development corporations will be consistent with local public development strategies?

A.5. In the specific case of New York, there are well established requirements for community board reviews to participate in the environmental and planning reviews. The emerging partnerships of the private sector and quasi public community development organizations gives the community a certain amount of protection and guarantee that a community's interest will be served.

Zoning policies that the city of New York instituted in the early sixties contributed to the decline in industry. The idea of creating a zoning framework where everything has to be a rigorous separation of residential and industrial uses whereby existing small manufacturing firms have to be grandfathered in being faced with having to move in order to expand all create unnecessary problems for those businesses to survive. The loss of manufacturing jobs since the late 1960's was inevitable. The idea that the decline of the manufacturing economy is a result of the failures of government is misguided. But the city government by commission and omission have made it worse. Property tax structures is biased against big industry and should be reassessed.

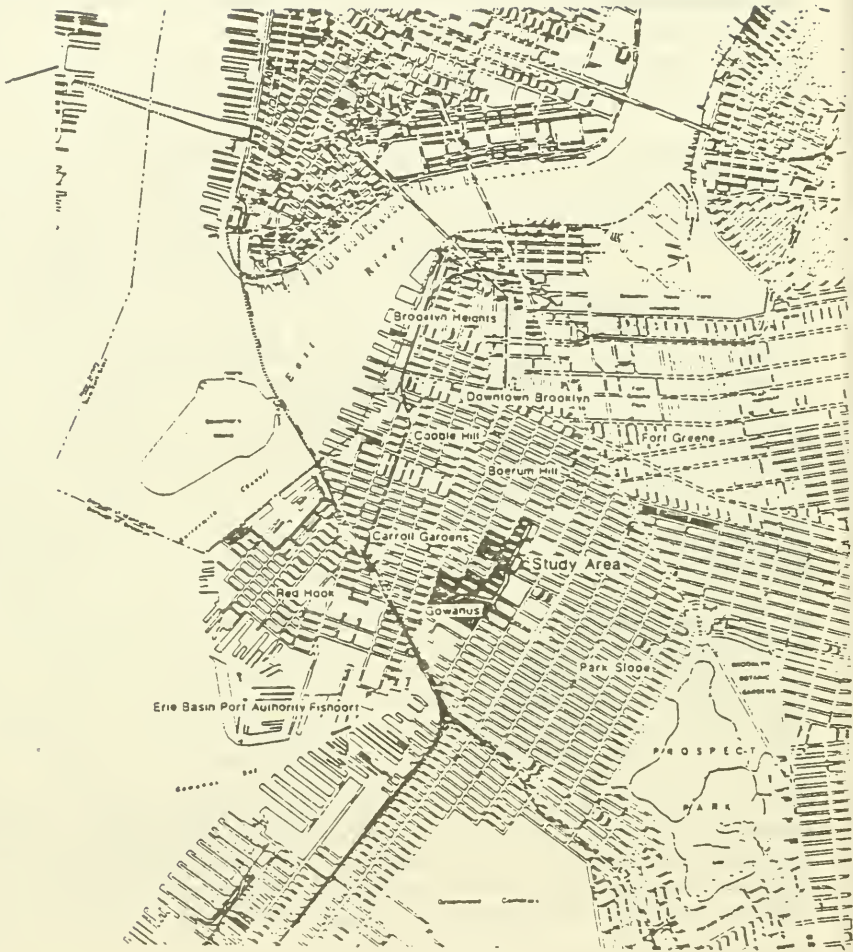
Accommodating new residential and commercial development on the "redeveloping waterfront" is now being recognized by New York City's planning department. New York City's Department of City Planning is responsible for the overall planning, direction and coordination of policy related to land use and development in the city. However, in its Comprehensive Waterfront Plan, released in August, 1992 the city is now considering zoning that is aimed at encouraging and enabling development of the area—zoning that is flexible and permissive rather than restrictive. The result in many areas is likely to be an ad hoc intermixing of residential, commercial, industrial and public development. The city may not see this as a disaster to be averted but as an outcome it wants to encourage.

Flexible, incremental development would build on existing areas of strength. It would be driven by the entrepreneurial energies of small businesses and community groups. It would provide employment and housing opportunities. And it would help re-establish the organic relationship between these communities and the water's edge that the economic changes of the last decades have done so much to disrupt.

Map 1

LOCATION MAP





NEIGHBORHOOD MAP



THE GOWANUS CANAL DEVELOPMENT STUDY

STUDY AREA

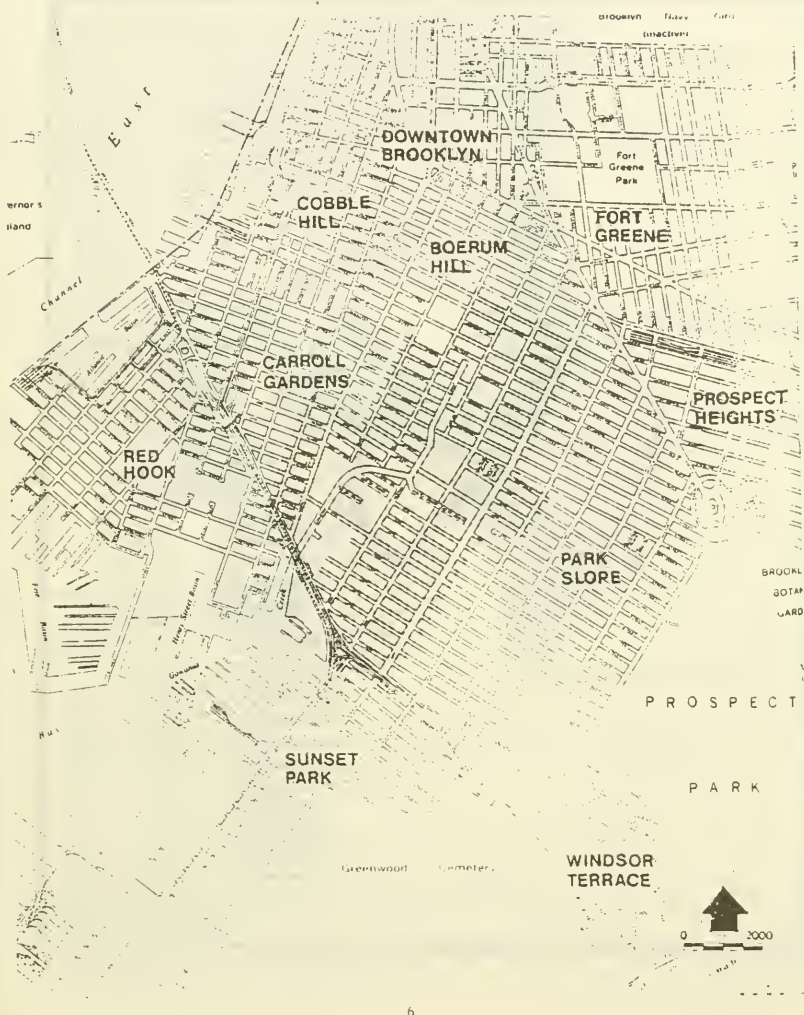


Figure 1

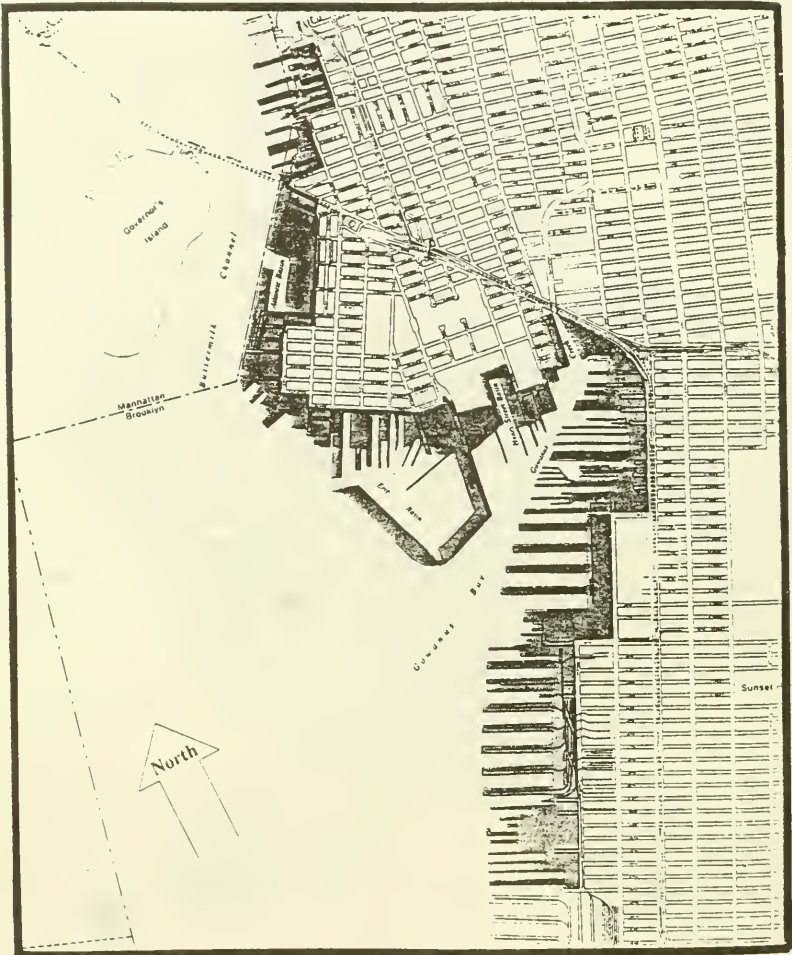
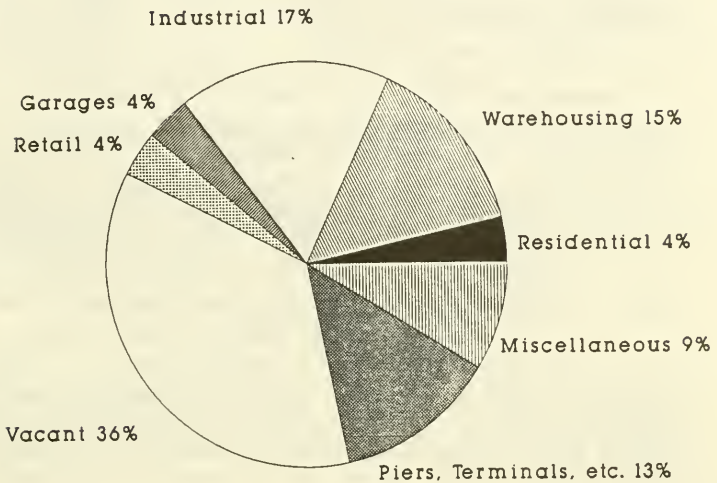


Figure II

Use of Waterfront Lots South Brooklyn Waterfront



Source: New York City Bureau of
Assessment of Real Property

RESPONSE TO WRITTEN QUESTIONS OF SENATOR RIEGLE FROM
TED WYSOCKI



Chicago Association of
Neighborhood Development Organizations

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Responses from Ted Wysocki, Executive Director, CANDO
to Questions from Senator Riegle:

Q1: To what extent are the contaminated sites in Chicago economically abandoned, as defined in S. 299?

A1: There are numerous contaminated sites in Chicago that would meet the definition of "economically abandoned" as defined in Sec. 903(1) of S. 299:

- ♦ "no longer operating or so substantially underutilized as to provide only marginal employment opportunities;"
- ♦ "located within a community that suffers from economic and social distress;"
- ♦ "conditions... detrimental to public health, safety or welfare and, in absence of the assistance under this title, prevent or materially discourage the timely redevelopment or reuse of a facility;" and
- ♦ (a developer would be) "unable to fund or finance the full amount of the cost of a reuse action."

The Chicago Department of Planning & Development has requested that the City's new Department of Environment create an inventory of contaminated sites. I am not sure when this study will be completed but it should provide a hard count in answer to this question.

Q2: Do you have any question that the roads, railroads, waterways, water, sewer, gas, electric and other public or private utilities and infrastructure that serve abandoned industrial and commercial facilities or sites continue to be economically useful assets?

A2: Any older infrastructure requires maintenance and attention. But I have no doubt that with reinvestment such infrastructure remains economically useful. The City of Chicago is investing this year: \$10.9 million in 12 industrial street projects; \$6.2 million for 9 viaduct clearances; and \$10.2 million for 32 specific bridge improvements. In addition, \$41 million is earmarked for the development of 7 industrial parks. This public investment can leverage significant private investment and business expansion but the critical remaining issue is financing the cost of environmental remediation.

Responses from Ted Wysocki, Executive Director, CANDO
to Questions from Senator Riegle Page 2

Q3: If we do not determine ways to reuse abandoned industrial and commercial sites:

(a) Can the business expansion and credit needs of persons wanting to operate business in distressed communities-- particularly small businesses -- be met?

A3(a): No. A major operating expansion for businesses is the cost of space. That cost involves not only acquisition but the rehabilitation of space to meet the operating requirements of that business. Liability that is attached to previous contamination discourages acquisition. The high cost of remediation skews the rehabilitation projections for any development pro forma.

(b) What will happen to the financial condition of local communities?

A3(b): Without addressing this issue, distressed local communities are condemned to a graveyard of contaminated land and properties. Their financial health will never improve. Any existing firms looking to expand will be forced to relocate, furthering the negative decline of that local economy.

(c) What are the economic consequences for the residents of our distressed communities?

A3(c): If those residents are fortunate enough to have jobs, relocation of firms will now condemn them to long commutes that do not contribute to healthy family development. If those residents are minorities with sufficient income and can find affordable housing in a suburb committed to open housing, they themselves may move out further contributing to the economic decline of the community and denying youth in the community appropriate role models of working parents. If residents are already unemployed, their chances for future employment will continue to be shattered by our country's failure to address this issue of financing environmental remediation and reusing abandoned industrial sites.

Q4: Is it feasible to increase the non-Federal share of financing reuse projects above the 25% S. 299 requires?

A4: It may be, but this will be dependent upon specific development pro formas on a project by project basis. I think the "avoidance of windfall" provisions in Sec. 906 are still the best mechanism for addressing recapture of federal funds.

Responses from Ted Wysocki, Executive Director, CANDO
to Questions from Senator Riegle Page 3

Q5: Are commercial lenders likely to participate in the financing of the reuse projects S. 299 contemplates?

A5: Yes. Since S. 299 provides the financing necessary to address the environmental remediation necessary, there should be no lender liability concerns. Obviously, loan commitments will depend upon the financial strength of the owner and bankable tenants in the case of leased space to assure sufficient cash flow for loan repayment.

Q6: Do local governments have sufficient jurisdiction over community redevelopment activities to be assured that projects undertaken by non-profit community development corporations will be consistent with local public development strategies?

A6: Yes. In Chicago, most industrial development organizations already are delegate agencies of the City's Department of Planning & Development and are under contract with the City to undertake such development strategies. In addition, such reuse projects will probably involve other local public investment for infrastructure or project financing that will require City approval. Many projects may be large enough to be treated as planned unit developments and will require review and approval by Chicago's Commercial Development Commission. It is unlikely that any project proposed by a non-profit CDC would go forward without the approval of the Commissioner of Planning & Development and thereby the inherent support of the Mayor.

RESPONSE TO WRITTEN QUESTIONS OF SENATOR BOXER FROM

TED WYSOCKI



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Responses from Ted Wysocki, Executive Director, CANDO
to Questions from Senator Boxer:

Q2: Does this program create conflicts between state environmental laws or agencies and the mission of re-development agencies? If so, how would these conflicts be resolved?

A2: On the contrary, I think S. 299 creates the opportunity for collaboration between environmental agencies and redevelopment agencies. Abandoned land without S. 299 will continue to lie fallow in its current contaminated state. S. 299 provides the public investment necessary to environmentally remediate this land and restore to economic productive use, generating jobs and increased tax revenue to all levels of government. During the development process, environmental approvals will be required that remediation plans are acceptable and in compliance. S. 299 provides the funding necessary for development to comply with state environmental laws.

Q3: What has been your experience in dealing with bankers who are hesitant to participate in land re-development due to the risks associated with having a site deemed to require costly clean-up?

A3: Fear of lender liability scuttled a \$3 million loan request that our organization packaged for a private developer over very minor Phase I findings. The lender refused to make their own judgment on the specific substance of the Phase I audit because of lender liability. Without such an informed decision, the general findings of this Phase I would lead a lender to refuse to lend on any industrial property in Chicago built before 1975.

Q4: What kind of mechanism is needed to satisfy the financial community that they will not be penalized for taking a risk on a site that they would normally avoid because of this liability?

A4: Legal clarification must be provided that if a new owner follows environmentally approved procedures for environmental remediation, they and consequently their lender can not be held liable for the contamination of previous parties. [See my written testimony regarding Trendler Metals]. Such previous parties originally responsible for the contamination should continue to be held liable and legal actions pursued. But new parties should not be held liable for trying to correct the problem.

Lenders should be encouraged to finance such acquisition and remediation of environmentally contaminated properties, not penalized. Specifically relinquishing lenders who foreclose on mortgages from responsibility (but not relinquishing past owners) for contaminated properties also would help. Distinguishing legislatively between responsible and not-responsible parties is important for lenders.

Responses from Ted Wysocki, Executive Director, CANDO
to Questions from Senator Boxer Page 2

Q5: What is your reaction to the plan [empowerment zones] recently announced by the President?

A5: As I noted in my testimony I had the professional privilege to discuss this plan with the President on his May 4th conference call. I told him that Chicago welcomes this dramatic new direction by the federal government. I commented during my remarks, and further analysis of the proposed legislation has reinforced my opinion, that this plan would benefit from tax credits for non-residential real estate development.

Revitalizing empowerment zones and enterprise communities will involve development of industrial factories, retail space, mixed-use properties, offices for small service businesses, day care centers, job training sites and cultural facilities. These real estate projects require equity financing to provide affordable space for end users and to attract businesses to locate in distressed areas.

A tax credit for community economic development real estate would provide a new financing tool for community development corporations (CDCs). It could be more modest than the low-income housing tax credit and does not need to be designed for syndication to individuals. There should be sufficient corporate interest in partnering with CDCs. In addition, it could be a decisive factor in a company deciding to locate in a distressed community.

Q6: How does it fit in with the legislation we are reviewing today?

A6: As I also brought to the President's attention, I believe that S.299 is a necessary and complimentary piece for empowerment zones. Given the distressed criteria to be used in selecting such zones, there is likely to be a high concentration of abandoned land. S. 299 would directly impact the ability to develop such property within empowerment zones. If this plan is to succeed, the issue of environmental remediation must be addressed.

THE BUILDING BLOCKS OF RUIN

CHICAGO SUN-TIMES, MARCH 14, 1993

Chicago's abandoned factories cast a long shadow.

Former manufacturing sites here are the industrial equivalent of Rome's classical ruins: old places of glory overrun by vandals and decay.

They also pose a threat to the revival of the city's manufacturing sector as it struggles to compete in a global economy.

Such sites are potential hazards, often with obsolete structures, and scare away investors who don't want to become liable for unknown underground waste on land used for industry long before environmental regulations were in force.

New government initiatives are aimed at helping to clean and reuse the sites. Mayor Daley has made demolition of derelict buildings a priority.

But community-development activists say that the complex problem won't be solved until reindustrialization receives the kind of no-holds-barred political attention usually reserved for convention centers, airports and casinos.

Statistics tell part of the story: Twenty years ago, according to the Illinois Manufacturers Directory, there were 7,330 manufacturing operations in Chicago. Today there are 4,711.

Many of the plants that closed in the meantime were among the city's biggest, most prominent employers: Wisconsin Steel, the South Works, Stewart-Warner, and, in the most recent announcement, the Lakeside Press.

There currently is no comprehensive citywide list of empty industrial sites and their likely environmental problems, although one is now being put together by the city and the Army Corps of Engineers.

But a 5.8-acre site at 1825 N. Laramie, used in the past for food processing and paint-industry operations, provides a classic illustration of empty factories' social cost to Chicago neighborhoods.

Archer-Daniels-Midland shut down operations there in 1985 and sold the site, which two years later was donated to the Northeast Austin Organization. The community group planned to reuse the parcel as a neighborhood center but lacked the resources to do so.

A Magnet for Crime

After a 6-foot-high fence around the site was stolen, the property was open to whoever wanted to wander through it. Gang symbols adorn structures that are several stories high. Two years ago a woman was raped there. Buildings are only partly demolished because of concerns that arose about asbestos. Scavengers have rendered intact structures unusable. Underground chemical storage tanks, left behind by previous owners, add to potential cleanup costs.

Debris litters the ground and illegally dumped trash has spilled across the alley and blocked garages of adjoining homes. Fires break out on the site. Neighbors have had difficulty refinancing mortgages because of its condition, and Ald. Carole Bialczak (30th) said it hurts insurance rates and property values.

"I don't think you can find anywhere in town a more graphic representation of the decline of industry than that site," said James Lemonides, executive director of the Greater North Pulaski Development Corp., a local nonprofit industrial-support group that coordinated an environmental assessment of the site in 1991. "It's a daily reminder of urban failures."

He and local manufacturers say the ruins help deter expansion of manufacturing on the adjoining Armitage industrial corridor. The site is on the east boundary of the 75-acre Galewood Yard area, which centers on an old railroad yard that the city has identified as a potential industrial park.

The development of such industrial parks, according to a 1991 Economic Development Commission study, will be key to retaining or creating as many as 200,000 jobs in Chicago in coming years, by accommodating expansion needs of industrial firms.

But Henry Rade, vice president of the Alenite Corp., a manufacturer of trophy components on the Armitage Corridor, said abandoned structures such as those on the Laramie site breed crime and are one more reason why factories choose to leave Chicago's old walk-to-work industrial neighborhoods.

Fears among lenders and businesses about potential environmental costs of such sites, together with extra costs of dealing with older structures and high city taxes, also make investors choose "greenfield" sites elsewhere.

"We are very nervous about the area," Rade said. "We have had somewhere in the neighborhood of 15 crime incidents in the past four months—armed robberies, car thefts, break-ins. . . . Until the government and the city and developers feel

that this is going to be a viable manufacturing area (in the long term), you're fighting a losing battle."

City officials say they have taken steps to support manufacturing in the area in recent years as part of new citywide industrial initiatives.

In 1991, the city spent \$20,000 to fund an environmental assessment of the site conducted for Lemonides' group by Warzyn Inc. consultants. The precise cost of removing asbestos from the structures is still unknown, but demolition and cleanup costs are estimated at \$1 million.

In late 1991, the entire Galewood Yard area was included in a State Enterprise Zone, with special tax breaks for business investment. Around the same time the Galewood Yard area was also identified as a potential industrial park site in the city's West Side industrial plan.

In recent months, the city moved ahead with plans to create a tax-increment finance district on the block that includes the 1825 N. Laramie site.

Officials say they plan to devote \$1 million from a new city general-obligation bond issue to clean and raze the site. It's hoped that those funds would then be replenished by taxes on new industrial development in the TIF district.

City lawyers also say they are looking at the possibility of going after former owners in court to recover some cleanup and demolition costs. They note that the legal and regulatory issues involved in such issues are complex.

But activists with the Northeast Austin Organization and the Greater North Pulaski Development Corp., who are pursuing separate efforts to redevelop the site, say the public sector has been slow to step in.

"Months and months ago we were supposed to know what the city's position on (liability) was, and it has taken all this time to get to the point where the city is willing to front-end the demolition and then worry about the liability," Lemonides said. "The neighborhood was suffering."

Gravity of Situation Varies

Similar problems are found in varying degrees at sites around the city, many of which are not believed to be seriously contaminated.

In the 1½-square-mile West Garfield Park neighborhood, the Bethel New Life community organization has counted about 40 former industrial sites now empty.

"I'd call it almost an environmental red-lining that is going on in Chicago and many other industrial areas," said Russell Selman, an environmental attorney with Bell Boyd and Lloyd in Chicago. "There are certain parts of town that lenders know are polluted and won't touch."

While Selman said lenders are getting more savvy in realizing that many industrial sites are not badly contaminated, he said the situation is further complicated by the lack of clear Federal guidelines on what type of cleanup is sufficient to avoid future liability.

"Following (Environmental Protection Agency) approaches you could ring up a bill of \$100,000 or \$200,000 for studies. . . . Most industries are unwilling to make that kind of investment only to find out the property is polluted, at which point if you own it EPA can tag you with the bill," he said.

J.C. Gfesser, president of Trender Metal Products Inc., said that, when his company tried to buy industrial property across the street from its metal-stamping plant around 16th and Kilbourn, it ran into such a problem.

Gfesser said the company needed expansion room to stay in the city. But he said it backed out of its plan to buy the site when it found out that, even after paying an estimated \$100,000 to \$200,000 for cleanup, it would remain liable for contaminated soil removed from the land and deposited in a landfill.

That, he said, could mean unknown financial headaches for the company if regulations on landfills were tightened at some future date.

"The contamination was created by previous owners of the property," he said. "But now because we want to buy the building, we own it (the contamination). . . . Government is putting all this burden on industry's back without trying to work with us as partners to solve the problem."

The possibility of a more aggressive U.S. industrial policy leaves some officials and academics hoping that such a partnership is starting to emerge.

City Environment Commissioner Henry Henderson calls it the ultimate in recycling: reusing public investment in transit, roads, power, sewers, water, and housing in old industrial areas, instead of abandoning it to build anew.

Rutgers University urban studies Professor Michael Greenberg has even dubbed vacated industrial sites "TOADS"—Temporarily Obsolete Abandoned Derelict Sites—because, he says, they have a future.

"The question is whether they're going to become a prince," Greenberg said. And they could, he adds, because of the social cost of abandoning urban areas that have labor, transportation, and infrastructure already in place.

@Art: Building Commissioner Dan Weil (left), Ald. Lemuel Austin Jr. and city attorney Susan Herdina inspect paint storage areas in front of the old Dutch Boy paint factory near 120th and Peoria. The city filed suit in 1991 against former owners of the polluted site, and says it reached an agreement in the last week with NL industries for a joint environmental study of the property. The abandoned United States Steel South Works factory at 85th and Brandon was one of the city's main employers. Twenty years ago, according to the Illinois Manufacturers Directory, there were 7,330 manufacturing operations in Chicago. Today there are 4,711.



NATIONAL CONGRESS FOR COMMUNITY ECONOMIC DEVELOPMENT

1875 Connecticut Ave., N.W., Suite 524, Washington, D.C. 20009
 Tel: 202/234-5009 Fax: 202/234-4510

July 8, 1993

Clement Dinsmore
 Committee on Banking, Housing, and Urban Affairs
 Washington, DC 20510-6075

Dear Mr. Dinsmore:

I am writing in support of S. 299, the Abandoned Land Reuse Act of 1993, introduced by Senator Riegle.

NCCED represents over 400 organizations that are creating jobs and housing in low and moderate income communities across the country. Many of these groups are operating in older urban neighborhoods where abandoned land is all too common.

S. 299 makes non-profit community development corporations eligible to receive funds for cleanup activities. This legislation would add an additional source of revenue for our members. Obtaining funds for site clean-up is often difficult, as many funding sources do not want to provide support for this aspect of the development process. Because of that fact, S. 299 is all the more important. It will allow many development projects to be completed that would not otherwise take place.

Please let me know if you need any further information for the hearing record.

Sincerely,

Alvertha B. Penny
 Acting President

Gowanus Canal Community Development Corporation

SALVATORE "BUDDY" SCOTTO
President

May 17, 1993

515 Court Street
Brooklyn, New York 11231
(718) 858-0558

The Honorable Alfonse M. D'Amato
United States Senator
Suite SH-520
Hart Building
Washington, D.C. 20510

Dear Honorable Alfonse D'Amato:

I want to thank you for having the opportunity to testify before the U.S. Senate Committee on Banking, Housing and Urban Affairs on behalf of the Abandoned Land Reuse Act of 1993 (S.299).

The new federal legislation is a significant step in the recognition of the importance of the rehabilitation and development of industrial land to the economic condition of America's inner city.

The Abandoned Land Reuse Act of 1993 also addresses the problems of social and economic isolation of urban communities such as Red Hook and Gowanus. The isolation of these communities may have been less critical in the decades when the community was sustained by its own waterfront industrial economy.

The process of rehabilitation referred to in the Abandoned Land Reuse Act of 1993 can contribute to overcoming the problems unemployment, drugs and isolation in poor communities. The benefits to the community are to have a homegrown technically trained work force that is employed in the clean-up and is available to industry after the clean-up.

Our Community based development corporation recognizes that the problem is multidisciplinary and that the solution requires a coordinated effort among several government agencies, educational and research institutions and industry.

Our partnership with Rensselaer Polytechnic Institute's (RPI) Brookhaven Lab-industry Partnership is critical to carrying out the technical, educational and training aspects of the clean-up. The economic and social benefits go hand in hand with creating a work force that industry can use.

Thank you, once again, for the opportunity to express my support for the solutions proposed to the issues that are raised in the Abandoned Land Reuse Act of 1993 (S.299).

Sincerely,

Maureen McManus

Maureen McManus

Office of Technology Development

TTP

Summary

Title: A CASE-STUDY APPROACH TO WASTE TECHNOLOGY EDUCATION AT TWO-YEAR COLLEGES

TTP No.: CH344202
 Revision: 0
 Date: 05/07/93

Field Office: CH
 Contractor: BNL
 HQ Office: OTD
 Fiscal Year: 1994

Headquarters Program Manager:

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Peter Colombo, (516) 282-3045

Joint Participants:

Bronx Community College
 Rensselaer Polytechnic Institute
 Environmental and Occupational Health Sciences
 Institute (sponsored by University of Medicine and
 Dentistry of New Jersey (UMDNJ) and Rutgers,
 The State University of New Jersey)

Jointly Funded Program:

Integrated Demonstration or Program:

Primary Technology Area:

Work Breakdown Structure Number: 1.5.3.1.3

B&R Code: EW404010

Task Summary:

The objective of the proposed task is to develop new curricula for teaching of environmental technology at the two-year college level. The approach is based on the use of specific environmentally important examples where waste technology methods can be demonstrated. The work will be done as an alliance between Brookhaven National Laboratory; Bronx Community College; Rensselaer Polytechnic Institute; Environmental and Occupational Health Sciences Institute (EOHSI) (sponsored by University of Medicine and Dentistry of New Jersey (UMDNJ) and Rutgers, The State University of New Jersey);

industrial participants such as GE Corporate R&D and Stone and Webster Corporation; and local, state, and federal governmental units. The project will be conducted as a coordinated effort with the Partnership for Environmental Technology Education (PETE) and the Northeast PETE group.

It is expected that these model projects will lead to new ways to bring active student involvement in topical waste technology problems, improve cooperation between the various communities concerned with waste technology, improve articulation of programs at two- and four-year colleges, and produce a new course curriculum that can be widely used over the entire country. Three topics have been chosen for concurrent investigation.

Lead poisoning is an extremely urgent and pressing problem in many urban areas. We will carry out an integrated program in the Newark, New Jersey, area based on this theme with participation of all members of this alliance. Modern methods for lead analytical chemistry will be integrated into courses at Bronx Community College, Bronx, New York, for courses in the Environmental Chemical Laboratory. The students will also be involved in organizing surveys of lead paint in housing and assessing paint and soil lead concentrations in the Newark area. Toxicology of lead will be discussed and a background in clinical assessment and treatment of lead poisoning in children given in collaboration with The University of Medicine and Dentistry of New Jersey staff at University Hospital in Newark. Principles of risk assessment will be applied to give an understanding of the extent of the hazards incurred by the general population.

Organics and heavy metals are an important component of waste in the Gowanus Canal cleanup project in Brooklyn, New York. The hazards from this type of waste are entirely distinct from the problem of lead toxicology. For example, vitrification methods may be useful in disposing of some of the contaminated soils found in the canal. This approach is distinct from many of the most important aspects of areas subject to high lead contamination. The plan is to involve students in the explanation of the problem to the community, to demonstrate methods of remediation, give instruction, in the field where feasible, demonstrate methods for risk assessment, and to also integrate this type of waste technology instruction into the course curriculum of the community colleges.

Pollution of rivers and lakes in upper New York State is another specific example of a related and very general problem. That is, pollutants can be carried in the atmosphere from distant sources and ultimately cause problems in lakes or rivers from acid rain and, in addition, chemical pollution from manufacturing activities can cause problems related to these specific activities. The problem of water quality is a now a major theme at several community colleges located close to RPI. RPI has several related research projects now in operation. It is natural then to use the expertise already in existence at RPI to help guide the development of course materials and practical experience at the community college level.

A major part of the work will involve the integration of relevant efforts of the project members, BNL, RPI, and community colleges into community education and cleanup activities. For example, in reducing effects of childhood lead poisoning it is of the utmost importance to have community education and community action so as to minimize the impact of lead paint on the children. This part of the program is regarded as important in a very general way to the training of hazardous materials technicians. The community colleges will also be a key to improving community education and giving accurate information the risks to the community.

It is expected that involvement of several community colleges in each geographical area will be useful. Bronx Community College staff will be responsible for recruiting additional community colleges and in integrating them into the overall effort. Several colleges have been identified in each area as appropriate project participants.

The work proposed in this task summary will be linked to the efforts of the BNL Office of Educational Programs (OEP). This linkage will help to further develop and expand efforts of the OEP in a number of ways by adding follow-on opportunities for students who are currently participating in BNL's Environmental

Education Outreach for Minorities (EEOM) program. EEOM participants are high school students. This work proposed in this task will lead to the development of opportunities for these students to continue their education in environmental technology as undergraduates at participating community colleges. Once such opportunities in place, they might be supported by a establishing a program of Environmental Education Scholarships for EEOM students - beginning with Bronx Community College.

Other possibilities for linkage between this task and EEOM include: 1) developing and offering in-school environmental science club activities for EEOM participating schools, possibly using undergraduate-mentors as assistants; 2) adapting and using activities or curriculum elements developed in this task to use in a summer program at BNL projects for advanced EEOM students; and 3) developing additional no-cost teacher training opportunities for pre-service and in-service teachers which could be offered at the participating community colleges. It is intended that as this program proceeds, interactions will be developed between additional community colleges who are or will be participating in EEOM.

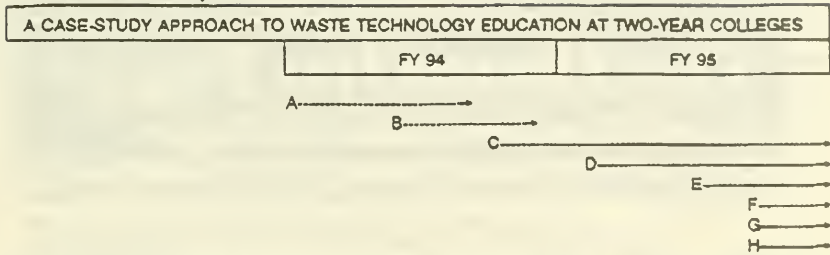
EOHHSI is already involved in several aspects of lead toxicology education and research in the Newark, New Jersey, area. They will be able to help integrate all aspects of the proposed activities in the Newark area including community outreach, student involvement, research and remediation activities, and will also contribute to the development of ideas for new course material.

The participants in the project will work in the three areas mentioned above, lead toxicology, Gowanus Canal cleanup, and water quality in the upstate New York area to: 1) Develop modifications to the 2-year curricula using these topics as examples. 2) Develop community involvement through these focussed activities. 3) Use industrial participation to address improvement of technician training for industrial positions. 4) Collaborate on planning for production of video tapes which can be distributed through the country as a general classroom tool. The RPI group is able to furnish advanced capabilities to the planning phase. 5) Assess the success of the case study approach.

Budget Summary: (dollars in thousands)

		FY 94	FY 95
OP	BNL	456	471
CE		0	0
GPP		0	0
U		0	0
Total		456	471

Task/Milestone Summary:



Milestone Explanations:

- A Start to identify materials for inclusion in environmental chemistry courses in the three problem areas.
- B Initiate formation of links with appropriate local governmental organizations and include them in program development.
- C Begin industrial recruitment and industry input to course material.
- D Commence field training for students.
- E Begin to develop new materials for course inclusion.
- F Begin work to draft description of video program for each problem area.
- G Start to write summary report for each problem area.
- H Initiate assessment of merits of the case approach to environmental education.

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1991, 1992, 1993

1949 7.12.1949

By Margaret Daly
Boston Paper Publications

The government would fund up to 75 percent of projects through the grants, according to a Banking Committee official.

Scotto has been pushing the redevelopment of the Gowanus Canal area for

"We've always been upfront about it, that the site could have these contaminants. That was done in our interest in being fully compliant," he said.

Scott said that dredging the canal is the key to improving the area. Money has been allocated by the city Department of Environmental Protection to dredge the canal's Flushing Tunnel, and once the dredging is done the canal could support marine life within three years, a DEP official said.

Association of State and Territorial

ASTSWMO

Solid Waste Management Officials

444 North Capitol Street, N.W., Suite 388
Washington, D.C. 20001
tel: (202) 624-6828 fax: (202) 624-7875

April 28, 1993

The Honorable Donald W. Riegle, Jr., Chairman
Senate Committee on Banking, Housing and Urban Affairs
U.S. Senate
Washington, D.C. 20510

Dear Senator Riegle:

The Association of State and Territorial Solid Waste Management Officials (ASTSWMO) has been asked to provide our views concerning your proposed legislation titled, "Abandoned Land Reuse Act of 1993", S. 299. ASTSWMO represents State waste managers directing the solid waste, hazardous waste, remediation, underground tank, and many of the reduction and recycling programs of the States and Territories of the U.S.

As we understand it, the broad purposes of this bill are to bring abandoned land back into productive use. This approach goes somewhat beyond our technical views of cleanup of contaminated waste sites. Clearly, it is good public policy to restore industrial sites and return them to the nation's productive capacity. However, we believe we should leave commentary on development policies for States and citizens to our governors.

Our particular interest is in legislation which can assist in the vast task of environmental remediation of contaminated sites. Our review of S. 299 leads us to believe that this legislation has the potential to assist many localities and support active State voluntary cleanup programs by its grant funding provisions. The nation's leaders spend a great deal of time concentrating on the over 1,200 sites on the Superfund National Priority List (NPL), as well they should. However, from our perspective, too little attention is given to the vast inventory of non-NPL contaminated sites which will never receive Superfund resources, and must be cleaned up by States, localities, and responsible parties. Some believe this inventory may contain up to as many as 35,000 sites requiring some form of action, and although many States have developed aggressive State cleanup programs to address these non-NPL sites, resources are always a problem. We see S. 299 as a source of some of those needed resources.

In general, our Association supports legislation which encourages progress in site cleanups throughout the country, and would clarify the primary role State Agencies have in implementing voluntary

cleanup programs for non-NPL sites (i.e., State sites). Many States have already developed voluntary cleanup programs whereby private parties perform site cleanups with State oversight. The private parties are often required to pay for all State costs associated with the cleanup and in return receive State certification that the cleanup has been performed to their satisfaction.

We believe the primary benefits of State run voluntary cleanup programs include:

- the assurance of timely remediation of non-NPL State sites when needed for economic or other business concerns
- the establishment of roles and responsibilities for Federal and State Agencies at non-NPL State sites thereby ensuring the most effective use of government resources
- the further development and enhancement of State capabilities

Consequently, we appreciate this bill's approach of allowing States the authority to oversee cleanups undertaken under its provisions without undue technical restrictions, using financial accountability as the primary federal control mechanism. We commend your common-sense approach which recognizes States as competent partners in meeting national cleanup needs.

We also note that Senator Lautenberg has recently introduced legislation relating to voluntary environmental cleanups to foster economic redevelopment (S. 773), and it is our understanding that Mr. Wyden is considering legislation along these lines in the House. We hope that as all these parallel legislative efforts mature, we can work with your staff to ensure that State waste program needs for compatibility can be achieved.

On behalf of the Association of State and Territorial Solid Waste Management Officials, we commend you for recognizing the importance of site cleanup as an integral part of your larger goal of revitalizing economically depressed areas. We would be happy to provide any technical assistance we can as you continue your work on this initiative.

Sincerely,

Paul P. Didier
 Paul P. Didier, P.E.
 ASTSWMO President

April 5, 1993

CLIPBOARD

The New York Times

Connecticut Seeks a Return Of Jobs as Well as Nature

By KIRK JOHNSON

NORWICH, Conn. — The bleak and vacant industrial landscape that stretches along the Shetucket River will never be featured on a Sierra Club calendar, and rats are more likely to be seen than spotted owls. But in Connecticut and a handful of other states, places like this represent a new environmental frontier.

The state wants to clean up the 90-odd years of accumulated pollutants here, and in the process is engaged in an unusual example of industrial archeology. But the driving force is not history or ecology; it is economics.

With this site, Connecticut is trying to develop a new approach to choosing urban cleanup projects. Although the basic mission of protecting public health is unchanged, the new paradigm factors in the property's economic potential. The dream is not for a return to nature, but for jobs and a new factory.

Identifying Sites With Potential

"Our goal is to try and revitalize the cities," said Connecticut's Environmental Protection Commissioner, Timothy R. E. Keeney. "The key here is identifying the sites with economic potential."

The year-old program, introduced by Gov. Lowell P. Weicker Jr. as part of an urban stimulus package, mirrors what environmental groups say is a trend around the nation. Fueled by the arguments of advocates for "environmental justice," who contend that poor urban neighborhoods are often the first to be polluted and the last to be cleaned up, environmentalism is

catching on as a tool of economic development.

"There is some sort of a shift going on," said Lois Epstein, an engineer at the Environmental Defense Fund, a group based in New York. "Where originally there was a lot of concern about the health hazards of these sites, people are now looking at these sites more holistically — everyone has an interest that these properties be used and not turned into dead zones."

At least six states, including New Jersey and Michigan, now have formal systems to speed the cleanup of industrial sites that are dirty enough to raise potential legal liabilities for new owners or developers but not dangerous enough to run afoul of the public health codes. A bill before Congress, submitted by Senator Donald W. Riegle Jr., Democrat of Michigan, would create a Federal grant system to encourage cleanups.

But Connecticut is taking a more interventionist role, experts say. Under the state's plan, selected sites would be scoured by environmental engineers working under contract with the Department of Environmental Protection, then marketed by the Department of Economic Development. The state would probably bear some of the cost of the cleanup, but in return would have a say in development on the land. As much as \$50 million in taxpayer money would be committed this year under an expanded version of the program now before the Legislature.

How it would all fit together in this pilot project on the Shetucket River, however —

even how much it might cost — remains to be seen. If the pollution at a site is not a threat to the public, for example, then how clean is clean enough for another factory? And how, exactly, will environmental officials apportion the cost between the state and an owner who may not have caused the pollution?

'A Lot of Unknowns'

"I would expect them to be reasonable," said Fred Schimel, a vice president at Household International, an Illinois-based consumer credit company that owns the 55-acre Norwich site. "But there are a lot of unknowns — a lot of questions remain to be answered."

History also complicates the cleanup. Everything from woolen cloth to gas meters were made on this property since the first mill building was erected around the turn of the century, and all left a sort of vapor trail of man-made abuses, from cleaning solvents to chromium, leached through the decades into the present.

And each of those uses and abuses must be tracked, as much as possible, to determine not only what the pollutants are, but where, and how they may have combined over time. Former employees have been found and interviewed, some even brought to the site to try to recall who did what to the land, and when.

"The historical information will help lead us to identify not only what should be sampled, but where the samples should be collected," said Edward Parker, who oversees the program at the Department of Environmental Protection. Sometimes, he said, the folk history of a factory can show the cavalier attitudes about disposal that were common.

"A lot of times what old business and industry used to do is that the guy used to take it out the back door and dump it," Mr. Parker said.

A Legacy of Pollution

Velvet was manufactured here by a French company until the 1938 hurricane apparently blew the company out of business. During World War II, a shop making airplane propellers was set up as part of the war effort. In the early 1950's, a company tried to weave synthetic cloth out of corn by-products. Then a company moved in that made ticky-tacky wire ornamentation for clocks and curios. Vacuum bottles were made here, too, for the nation's lunch-box army of blue-collar workers, until that market, too, began to dry up in the 1970's.

Test holes have revealed traces of almost all those companies: black partially composted synthetic cloth, degreasing solvents, zinc and copper from the wire-plating process, and the entombed remains of three filled-in lagoons that were the settling ponds for the corn processing company, on which vegetation, even 30 years later, does not grow well.

An electromagnetic survey of the land hard along the river, where at least 41 barrels of liquid industrial wastes were found buried in 1980, has shown that it was an impromptu scrap yard. The metal detectors have also found a mass that may be the remains of a 1,542-gallon underground oil tank installed by the United Aircraft Company between 1942 and 1944 and since lost from the maps and believed to have been crushed by later construction.

The state plans to spend \$660,000 on research and planning for the cleanup project here.

Still, some Norwich residents and former employees doubt that this property will ever be fully rehabilitated — not because of the pollution, but because it was never the best land in the first place.

'Money Down a Sewer'

"It's in the flood plain — I've seen two feet of the water in the basement of the building," said Robert H. Kellogg Jr., who was engineering manager for the wire products company in the late 50's and early 60's. Mr. Kellogg, who is 83, said he believes the whole project is folly. "They're throwing money down a sewer to clean up a sewer," he said in an interview in his home in Niantic.

Mr. Parker at the Department of Environmental Protection said, how-

ever, that he believes the forces that once made the Shetucket River site attractive will emerge again when the land is given a clean bill of health. Anyway, he added, the process has to start somewhere.

"We've got old factories gone, vacant, abandoned," he said. "We need to do something."

'Transaction Grease' Can Ease Liability

You may not need it, but insurance covering potential environmental liability - and staggering legal fees - can bring peace of mind ... even profits.

BY RUTH GUILLET FIELDS

The word "Superfund" makes commercial real estate investors sit up and take notice.

President Clinton, in his State of the Union address, touched on the subject. He said that Superfund money should be used to pay for environmental clean-ups, not attorneys' fees (as about 85% now is), and warned that polluters will be made to pay for the environmental damage they cause.

For investors, it was a call for greater due diligence.

When investors purchase commercial property, an environmental site assessment (ESA) is conducted. Its purpose is to discover existing or potential contamination so an informed purchase decision can be made. But sometimes the assessment falls short, pollution goes undetected, and the investor can face huge liability down the road.

An option investors now have is to buy an added layer of protection called environmental insurance. In fact, at least one large lender - Fleet - requires environmental insurance on all its commercial loans over \$1 million.

There is also available insurance to pay the staggering legal costs involved in fighting environmental liability cases.

'Transaction grease'

"Transaction grease" is what Charles L. Perry Jr., president and chief executive officer of Environmental Warranty, Inc., West Hartford, Conn., calls environmental insurance. Environmental concerns can bog down a deal, he says, causing thousands of dollars in lost interest and profits.

Perry, who has more than 20 years' lending experience, says that in all his years as a banker, "I never lost a dime related to fire, vandalism or theft, but I lost my shirt a couple of times because of environmental concerns."

He often thought, "As opposed to being surprised by environmental risk, wouldn't it be nice to have insurance against that risk?"

And so, a company was born.

The insurance works like this: An ESA is conducted. If pollution is discovered, the lender can decide whether to clean it up. Once that is completed, or if no pollution is found, the insurance indemnifies against any

undiscovered pollution.

"What we insure is what is not found and later discovered," Perry explains. "If problems are found, we will write the policy, then offer a clean-up and later remove exceptions to the policy."

Secondary liability

Similar insurance is available from American Business Insurance Brokers of Los Angeles, Inc., headquartered in Encino.

"There are almost 200 federal and state laws that can impact the buyer, operator and lender and can even lend secondary liability," says John J. Theiss, vice president.

Theiss says the lending community has been slow to recognize the importance of environmental insurance, while the secondary market is starting to take notice.

Some lenders and investors just think the cost is prohibitive, Theiss says, but if you lend money for or invest in a commercial property that becomes a designated polluter, can you afford not to have insurance? he asks.

Theiss says each policy is site-specific; that is, the policy is underwritten based on each property's specific circumstances. Policies can protect against historic contamination or against contamination caused by the borrower after the loan is made. It also can protect in default situations.

"Anyone buying (or investing in) commercial property should protect themselves with this form of insurance," Theiss says of environmental liability coverage.

REO red flags

Foreclosed properties pose special risks.

REO (real estate owned) environmental legal liability insurance is available through Rollins Hudig Hall of Florida, Inc., Coral Gables, Fla.

The insurance, underwritten by Lloyd's of London, is best-suited for lenders or investors with portfolios of foreclosed properties, according to Joseph Vitello, president of the company's financial insurance services division.

In most cases, if a property is foreclosed on, the lender/investor is not liable for pollution problems. But if the lender/investor takes possession of the property, there may be an implied liability, Vitello explains.

The legal liability insurance does not pay for an environmental clean-up, but for the defense of proving that the lender/investor did not have control or use of the property.

It's "contingent liability" that can supplement other insurances, Vitello says.

"I don't think every REO property has to be included. If you have a portfolio of commercial property - industrial warehouses, manufacturers, filling stations - that type of business, it's advisable; I think apartment buildings are less likely to pose a risk."

Like other promoters of environmental-related insurance, Vitello says that while the cost of such policies may seem high, each lender and investor must weigh the cost against the potential liability.

Perry, of Environmental Warranty, knows of a recent commercial property sale in which the \$15.5 million sale price dropped to \$13.1 million because a suspicion or perception of environmental concerns was raised at the closing table.

The seller could have put an extra \$2.4 million in his pocket if he had just thought about purchasing a policy that would have cost him a small percentage of his profit.

The kicker:

"The property was as clean as a whistle," Perry says.

**NATIONAL
ASSOCIATION
of
COUNTIES**

*440 First St. NW, Washington, DC 20001
202/393-6226*

STATEMENT OF THE
NATIONAL ASSOCIATION OF COUNTIES

ON

S. 299,

THE ABANDONED LAND REUSE ACT

OF 1993

BEFORE THE

COMMITTEE ON BANKING, HOUSING, AND URBAN
AFFAIRS

U.S. SENATE

MAY 5, 1993

WASHINGTON, D.C.

National Association of Counties Statement on S. 299
 May 5, 1993
 Page 1

The National Association of Counties (NACo)¹, together with its affiliate organization, the National Association for County Community and Economic Development (NACCED), appreciates the opportunity to express its support for S. 299, the Abandoned Land Reuse Act of 1993.

S. 299, introduced by Senators Riegle, Dodd, Boxer, Moseley-Braun, Simon, Levin, and Jeffords, is intended to assist states, local governments, and non-profit entities in their efforts to facilitate the redevelopment or reuse of abandoned industrial and commercial sites and facilities. The remediation of these sites and their reuse in the economic development of both urban and rural areas is properly recognized by the legislation as a national problem requiring federal involvement, in partnership with other levels of government and the non-profit and private sectors.

The existence of these sites is a serious impediment to county community and economic development in both urban and rural areas. With county budgets stretched to the limit as the recession continues its grip on them for the foreseeable future, there is no room for counties to remediate these sites without federal, and hopefully state, financial assistance. Because of the nature of the "Superfund" remediation program, these sites will not make it onto the list of priority sites eligible for Superfund cleanup. Thus, it is wholly appropriate that a new federal program be created for this purpose.

The prevalence of abandoned industrial sites in counties throughout the U.S. is a fact of life as America makes the forced shift from heavy industry to cleaner ones requiring expensive new forms of technology. From the outmoded steel mills of Pennsylvania, Maryland, Ohio, West Virginia and Indiana to the dinosaur defense plants of Texas and California, counties are faced with promising expanses of land which may be profitably reused if only they can be cleaned up.

¹ The National Association of Counties is the only national organization representing county government in the United States. Through its membership urban, suburban and rural counties join together to build effective, responsive county government. The goals of the organization are to: improve county government; serve as the national spokesman for county government; serve as a liaison between the nation's counties and other levels of government; and achieve public understanding of the role of counties in the federal system. NACo has twelve policy committees, including the Community and Economic Development Steering Committee which has policy making responsibility for community development, economic development and affordable housing issues. It is this Committee which formulated NACo's position, subsequently adopted by the Board of Directors, on S. 299. NACo also includes a number of professional affiliate organizations such as NACCED, which is comprised of administrators of county community development, economic development, and affordable housing programs, and which provides technical assistance to the Community and Economic Development Steering Committee in its policy development process.

National Association of Counties Statement on S. 299
 May 5, 1993
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Moreover, the reuse of former industrial sites such as those contemplated for assistance under S. 299 has been shown to be an effective economic and community development tool at the county level. Missing have been the funds to make these sites safe for reuse on a more frequent basis. Nevertheless, what the efforts of a few entrepreneurs have done in showing that clean industrial sites can be usefully recycled, S. 299 would do for damaged industrial sites that can be remediated. It would demonstrate how a limited but significant amount of funds, judiciously applied to a problem with a foreseeable solution, can substantially increase community and economic development benefits. Because these sites are often located in or near the neighborhoods where low- and moderate-income persons live, the urgency of making these funds available is obvious.

NACo would, however, urge that S.299 be modified to:

- Eliminate the discretionary authority for the program to be delegated to the states. This program should be a federal-local partnership. This is not to say, however, that there is no role for the states. States should participate as financial, policy, and planning partners, but should not administer the program nor have veto power.
- Eliminate the non-federal matching requirement. This program is focused on distressed communities and neighborhoods which are least able to provide a match. However, leveraging incentives might be appropriate if structured fairly.
- Nonprofit organizations should not be eligible for direct funding, but should be required to work through their local governments to receive program assistance. This will ensure that their proposed activities are consistent with local community and economic development plans.
- Exempt local governments from contingent liability. Under no circumstance should a local government participating in the program become liable for the site, its difficulties, nor their effects as a consequence of applying for or receiving assistance under S. 299.
- Require that local governments seeking to participate in a remediation program authorized by S.299 have the ability to assist private property owners and establish liens up to the cost of rehabilitation.

Thank you for the opportunity to present the views of the nation's counties.

103D CONGRESS
1ST SESSION

S. 299

To amend the Housing and Community Development Act of 1974 to establish a program to demonstrate the benefits and feasibility of redeveloping or reusing abandoned or substantially underutilized land in economically and socially distressed communities, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 3 (legislative day, JANUARY 5), 1993

Mr. RIEGLE (for himself, Mr. JEFFORDS, Mr. SIMON, Mr. LEVIN, Mrs. BOXER, Ms. MOSELEY-BRAUN, and Mr. DODD) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To amend the Housing and Community Development Act of 1974 to establish a program to demonstrate the benefits and feasibility of redeveloping or reusing abandoned or substantially underutilized land in economically and socially distressed communities, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION. 1. ABANDONED LAND REUSE ACT OF 1993.**

4 The Housing and Community Development Act of
5 1974 (42 U.S.C. 5301 et seq.) is amended by adding at
6 the end the following new title:

1 **"TITLE IX—REDEVELOPMENT OR**
2 **REUSE OF ABANDONED LAND**

3 **"SEC. 901. SHORT TITLE.**

4 "This title may be cited as the 'Abandoned Land
5 Reuse Act of 1993'.

6 **"SEC. 902. FINDINGS.**

7 "The Congress finds that—

8 "(1) past uses of land in the United States for
9 industrial and commercial purposes or the conduct
10 of other economic activities have created many sites
11 throughout the United States that are now aban-
12 doned or substantially underutilized;

13 "(2) the abandonment or substantial under-
14 utilization of the sites referred to in paragraph (1)
15 contribute substantially to the economic and social
16 distress of communities in large portions of the pop-
17 ulation, including poor and unemployed individuals
18 and disadvantaged population groups, have con-
19 centrated;

20 "(3) the abandonment or substantial under-
21 utilization of the abandoned sites impairs the ability
22 of the Federal Government and the governments of
23 States and political subdivisions of States to provide
24 employment opportunities for, and improve the eco-
25 nomic welfare of, the people of the United States

1 and the poor, unemployed, and disadvantaged, in
2 particular;

3 “(4) the abandonment or substantial under-
4 utilization of the abandoned sites results in the inef-
5 ficient use of community development facilities and
6 related public services, and extends conditions of
7 blight in local communities;

8 “(5) the manner in which—

9 “(A) the population of the United States is
10 distributed; and

11 “(B) communities accommodate the
12 growth of the national economy;

13 affects the employment opportunities, availability of
14 capital to provide economic opportunities, social con-
15 ditions, and other important conditions of each such
16 community;

17 “(6) the private market demand for abandoned
18 sites has been reduced or eliminated;

19 “(7) the capital available for the redevelopment
20 or reuse of abandoned sites may be limited;

21 “(8) cooperation among Federal agencies and
22 the departments and agencies of States and political
23 subdivisions of States is necessary to accomplish
24 timely redevelopment or reuse of abandoned sites;

1 “(9) in addition, cooperation between the de-
2 partments and agencies referred to in paragraph (8)
3 and private parties is necessary to accomplish the
4 objective referred to in paragraph (8); and

5 “(10) there is a need for a program to dem-
6 onstrate the public purposes and benefits of the re-
7 development or reuse of abandoned sites.

8 **“SEC. 903. DEFINITIONS.**

9 “As used in this title:

10 “(1) ABANDONED SITE.—The term ‘abandoned
11 site’ means a facility or a combination of geographi-
12 cally or economically related facilities within the
13 same unit or immediately contiguous units of gen-
14 eral local government—

15 “(A) that is no longer operating or is so
16 substantially underutilized as to provide only
17 marginal employment opportunities;

18 “(B) that is located within a community
19 that suffers from economic and social distress
20 measured by factors referred to in section
21 907(a)(4);

22 “(C) that has one or more conditions, con-
23 straints, or characteristics (other than only
24 being a type of facility with respect to which
25 market supply exceeds demand) that are det-

1 rimental to the public health, safety, or welfare
2 and, in the absence of the assistance under this
3 title, prevent or materially discourage the timely
4 redevelopment or reuse of a facility or real
5 property immediately adjacent to the facility for
6 a use or uses that include the provision of em-
7 ployment opportunities in accordance with ap-
8 plicable community development strategies; and

9 “(D) with respect to which a person re-
10 ferred to in section 910(a) is unable to fund or
11 finance the full amount of the cost of a reuse
12 action.

13 “(2) FACILITY.—The term ‘facility’ means an
14 improved or previously improved site or area, or a
15 surface or subsurface improvement to a site or area,
16 including a building, structure, installation, fixture,
17 or equipment on or within the site, that has been
18 used primarily for an industrial or commercial use.

19 “(3) GOVERNOR.—The term ‘Governor’ means
20 the Governor of a State, or the Governor’s designee.

21 “(4) LOCAL COMMUNITY DEVELOPMENT ORGA-
22 NIZATION.—The term ‘local community development
23 organization’ means a nonprofit organization (as de-
24 fined in paragraph (7)) that—

1 “(A) has a history of serving the needs of
2 residents of the local community affected by an
3 abandoned site;

4 “(B) maintains accountability to persons
5 of low-income in a local community through sig-
6 nificant representation on the governing board
7 of the organization, and such other means as
8 are appropriate; and

9 “(C) has the institutional and administra-
10 tive capacity for carrying out activities assisted
11 under this title (as determined by the Sec-
12 retary).

13 “(5) LOCAL GRANTEE.—The term ‘local grant-
14 ee’ means a local community development organiza-
15 tion or unit of general local government.

16 “(6) PERSONS OF LOW INCOME.—The term
17 ‘persons of low income’ has the meaning provided
18 the term under section 102(20).

19 “(7) NONPROFIT ORGANIZATION.—The term
20 ‘nonprofit organization’ means any private, nonprofit
21 organization (including a State or locally chartered,
22 nonprofit organization)—

23 “(A) that is organized under State or local
24 laws;

1 “(B) with respect to which no portion of
2 the net earnings inure to the benefit of a mem-
3 ber, founder, contributor, or individual associ-
4 ated with the organization;

5 “(C) that complies with standards of fi-
6 nancial accountability that the Secretary deter-
7 mines to be acceptable; and

8 “(D) that carries out activities related to
9 the retention or expansion of employment op-
10 portunities for, and improvement of economic
11 and social conditions of, persons of low income.

12 “(8) REUSE ACTION.—The term ‘reuse action’
13 means an action that makes such physical changes
14 in, or improvements or additions to, an abandoned
15 site so as to enable the timely redevelopment or
16 reuse of the site or real property immediately adja-
17 cent to the site. Such term shall include the clear-
18 ance, demolition, or rehabilitation of the site. Such
19 term shall not include the construction of new build-
20 ings on the site.

21 “(9) SECRETARY.—The term ‘Secretary’ means
22 the Secretary of Housing and Urban Development.

23 “(10) STATE.—The term ‘State’ has the mean-
24 ing provided the term under section 102(a)(2).

1 “(11) UNIT OF GENERAL LOCAL GOVERN-
2 MENT.—The term ‘unit of general local government’
3 has the meaning provided the term in the first sen-
4 tence of section 102(a)(1).

5 **“SEC. 904. DEMONSTRATION PROGRAM.**

6 “(a) IN GENERAL.—The Secretary shall select appro-
7 priate States in which to establish and carry out either—

8 “(1) a program to provide grants to States to
9 establish a State program to provide grants to local
10 grantees; or

11 “(2) a direct grant program to provide grants
12 to local grantees,

13 for the purpose of carrying out the demonstrations de-
14 scribed in subsection (b).

15 “(b) PURPOSE.—The purpose of the programs au-
16 thorized by subsection (a) is to demonstrate—

17 “(1) the economic feasibility of redevelopment
18 or reuse of abandoned sites;

19 “(2) the employment benefits, economic bene-
20 fits, social benefits, and such other benefits to dis-
21 tressed communities that may occur as a result of
22 focusing financial resources and cooperative action
23 on the redevelopment or reuse of abandoned sites;

1 “(3) the beneficial impacts on patterns of com-
2 munity development and use of public resources of
3 redevelopment or reuse of abandoned sites; and

4 “(4) the feasibility of timely, cooperative
5 action—

6 “(A) among Federal agencies and depart-
7 ments and agencies of States and political sub-
8 divisions of States that have jurisdiction over
9 the redevelopment or reuse of abandoned sites;
10 and

11 “(B) between the agencies and depart-
12 ments referred to in subparagraph (A) and pri-
13 vate parties.

14 “(c) ALLOCATION OF FUNDS.—The Secretary shall
15 allocate funds made available pursuant to this title among
16 the States or to local grantees. In allocating the funds,
17 the Secretary shall take into account—

18 “(1) the relative commitment of a State and
19 local grantees to achieving successfully the dem-
20 onstrations described in subsection (b) measured by
21 factors that include that referred to in section
22 907(a)(7);

23 “(2) the relative number of abandoned sites in
24 the State;

1 “(3) the need to allocate funds in amounts that
2 will contribute to achieving successfully the dem-
3 onstrations described in subsection (b); and

4 “(4) the desirability of carrying out a variety of
5 demonstration projects with respect to the location,
6 characteristics, and issues addressed by the projects,
7 and the types of participants associated with the
8 projects.

9 “(d) SCOPE OF PROGRAM.—

10 “(1) IN GENERAL.—In carrying out the dem-
11 onstration program established under subsection (a),
12 the Secretary may award a grant to a State pursu-
13 ant to section 905 or to a local grantee that submits
14 an approved application to the Secretary pursuant to
15 paragraph (2).

16 “(2) GRANT APPLICATION.—An application for
17 a grant under this section shall include a proposal
18 for a reuse action for the redevelopment or reuse of
19 an abandoned site, and shall be in such form as the
20 Secretary determines to be appropriate.

21 “(3) COMPETITIVE SELECTION PROCEDURE.—
22 Each grant made under this title by the Secretary
23 or a Governor to a State or local grantee shall be
24 made on the basis of an open and competitive selec-
25 tion procedure approved by the Secretary. In making

1 a grant to a local grantee, the Secretary shall con-
2 duct a selection procedure on a State-by-State basis.

3 “(4) SELECTION OF SITES BY GOVERNOR.—If a
4 State establishes a State demonstration program
5 that is approved in accordance with section 905, the
6 Governor shall select the abandoned sites to receive
7 assistance under the grant program. In carrying out
8 the demonstration program, the Governor may act
9 through appropriate officials of the State.

10 “(5) GRANT AWARDS.—Except as provided in
11 paragraph (6), the aggregate amount of grants
12 awarded for reuse actions at an abandoned site shall
13 not exceed an amount equal to 75 percent of the
14 total eligible costs of carrying out a reuse action at
15 the abandoned site. Each local grantee that receives
16 a grant award under this title shall be required to
17 pay a non-Federal share in an amount equal to 25
18 percent of the total eligible costs of carrying out the
19 reuse action at the abandoned site that is the sub-
20 ject of the grant award.

21 “(6) EXCEPTION.—Subject to sections 906 and
22 909, the Secretary (or in the case of a State dem-
23 onstration program under section 905, the Gov-
24 ernor) may fund up to 100 percent of the total eligi-
25 ble costs of carrying out a reuse action at an aban-

1 doned site if the Secretary (or the Governor) obtains
2 satisfactory assurances from the grant recipient
3 that—

4 “(A) a transfer of the abandoned site will
5 occur as part of the redevelopment or reuse of
6 the site;

7 “(B) the net proceeds realized from the
8 transfer of the site will reasonably approximate
9 at least 25 percent of the eligible costs of carry-
10 ing out a reuse action at the site; and

11 “(C) an amount reasonably approximating
12 25 percent of the eligible costs referred to in
13 subparagraph (B) from the net proceeds re-
14 ferred to in subparagraph (B), will be paid
15 promptly upon receipt of the proceeds by or on
16 behalf of the grant recipient to the Secretary
17 (or the Governor).

18 **“SEC. 905. DELEGATION OF IMPLEMENTATION TO STATE**
19 **DEMONSTRATION PROGRAM.**

20 “On a State-by-State basis, the Secretary may, in lieu
21 of awarding grants to individual local grantees, award a
22 grant to a State that submits an approved application to
23 the Secretary to conduct a State demonstration program
24 to carry out the demonstrations described in section
25 904(b). Subject to the limitations referred to in section

1 904(d), under a State demonstration program, the Gov-
2 ernor of a State shall have the authority to select aban-
3 doned sites and allocate assistance from amounts awarded
4 to the State pursuant to this section.

5 **"SEC. 906. FUNDING.**

6 “(a) IN GENERAL.—Payment of the non-Federal
7 share under section 904(d)(5) may be made from funds
8 from any non-Federal source, and may include services or
9 equipment necessary to carry out the reuse action.

10 “(b) AVOIDANCE OF WINDFALL FROM GRANT
11 AWARD.—

12 “(1) IN GENERAL.—A local grantee, shall, as a
13 condition to receiving a grant award, enter into an
14 agreement with the Secretary (or in the case of a
15 State demonstration program under section 905, the
16 Governor) that requires the payment of an amount
17 specified in paragraph (2) to the Secretary (or the
18 Governor) by the local grantee of any amount of
19 compensation that the local grantee may recover
20 from another person as compensation for the cost of
21 carrying out a reuse action at the abandoned site
22 that is the subject of the grant award.

23 “(2) AMOUNT OF PAYMENT.—The amount of
24 payment described in this paragraph shall be—

1 “(A) in addition to the amount required to
2 be paid pursuant to section 904(d)(6); and

3 “(B) an amount equal to 85 percent of any
4 amount by which the amount recovered (net of
5 recovery costs) exceeds the non-Federal share of
6 the local grantee.

7 “(c) AVOIDANCE OF WINDFALL WHERE LOCAL
8 GRANTEE IS NOT SITE OWNER.—In the event that—

9 “(1) an abandoned site that is the subject of a
10 grant award under this title is not owned by the
11 local grantee that receives the award, or

12 “(2) an action is taken with respect to an aban-
13 doned site to enable the reuse or redevelopment of
14 real property immediately adjacent to the abandoned,
15 site, and the local grantee does not own the adjacent
16 site,

17 the local grantee shall be required, as a condition of receiv-
18 ing the grant award, to enter into an agreement that is
19 satisfactory to the Secretary with the owner of the site
20 or adjacent site. The agreement shall ensure that the
21 owner of the site or adjacent site will not realize a windfall
22 from the assistance provided under the grant, and the
23 local grantee will be able to meet the requirements of this
24 title.

25 “(d) OTHER RECOVERY OF FEDERAL ASSISTANCE.—

1 “(1) IN GENERAL.—

2 “(A) AMOUNT.—An agreement referred to
3 in subsection (b)(1) shall specify that as a con-
4 dition of receiving a grant award under this
5 title, the grant recipient shall be required to
6 pay to the Secretary (or the Governor) the sum
7 of—

8 “(i) the amount of the grant award;
9 and

10 “(ii) the amount of interest accrued
11 on the amount referred to in clause (i)
12 from the date of the awarding of the grant
13 (at a rate determined by the Secretary)
14 if a condition described in clause (i) or (ii) of
15 subparagraph (B) is met.

16 “(B) FAILURE TO INITIATE.—If, with re-
17 spect to the abandoned site that is the subject
18 of the grant—

19 “(i) a reuse action has not been initi-
20 ated by 1 year after the date that the
21 grant is awarded; or

22 “(ii) the redevelopment or reuse has not
23 been completed in a timely manner (as de-
24 termined by the Secretary, or, in the case

1 of a State demonstration program under
2 section 905, the Governor),

3 the grant recipient shall be required to make a
4 payment pursuant to subparagraph (A).

5 “(2) TIMING OF REPAYMENT.—A repayment re-
6 ferred to in paragraph (1) shall be due upon notice
7 to the grant recipient by the Secretary (or the Gov-
8 ernor) that a condition described in clause (i) or (ii)
9 of paragraph (1)(B) has been met.

10 “(3) WAIVER.—The Secretary (or the Gov-
11 ernor) may waive the requirement for repayment
12 under paragraph (1) or may require only partial
13 payment of the amount specified in paragraph (1) if
14 the Secretary, (or the Governor) determines that—

15 “(A) the grant recipient acted in a manner
16 consistent with the requirements of section
17 904(b); and

18 “(B) exigent circumstances contributed to
19 the delay.

20 “(e) USE OF RECOVERED FUNDS.—The Secretary
21 (or the Governor) may use funds recovered pursuant to
22 this section to make additional grant awards in accordance
23 with this title. The Governor may issue an additional
24 grant award with funds recovered pursuant to this section

1 without regard to the requirement for preapproval by the
2 Secretary under section 905.

3 **"SEC. 907. CRITERIA FOR SITE SELECTION.**

4 “(a) IN GENERAL.—The Secretary (or in the case of
5 a State demonstration program under section 905, the
6 Governor), after receiving completed applications for grant
7 awards under this title, shall select abandoned sites and
8 allocate awards. In making the grant awards, the Sec-
9 retary (or the Governor) shall take into account the follow-
10 ing criteria:

11 “(1) The extent to which economic, social, and
12 such other benefits of the redevelopment or reuse of
13 the site as the Secretary (or the Governor) deter-
14 mines to be appropriate, including the employment
15 and job training opportunities, and other related
16 benefits to persons of low income who are residents
17 of the local community in which the site is located,
18 are likely to exceed the costs of the redevelopment
19 or reuse of the site. In determining the benefits, the
20 Secretary (or the Governor) shall consider the
21 amount of job opportunities to be retained or cre-
22 ated, expected increases in economic activity within
23 the community, expected increases in local tax reve-
24 nue, capital resources to be conserved, and such

1 other public resources as the Secretary (or the Gov-
2 ernor) determines will be conserved.

3 “(2) The extent of need for assistance under
4 this title to fund a reuse action.

5 “(3) The extent of contribution from non-Fed-
6 eral sources, including capital investment by private
7 parties, expected to occur in connection with the re-
8 development or reuse of the site.

9 “(4) The degree of economic and social distress
10 of the local community in which the site is located,
11 determined by considering the amount of loss of
12 community employment in the industrial sector, the
13 rate and period of unemployment, the relative per
14 capita income of local community residents, any de-
15 cline in economic activity, any population loss or
16 growth that is disproportionate to local economic op-
17 portunity, and such other related factors as the Sec-
18 retary determines to be appropriate.

19 “(5) The degree of cooperation among appro-
20 priate Federal agencies and departments and agen-
21 cies of relevant States and political subdivisions of
22 the States, as well as between the departments and
23 agencies and private parties.

24 “(6) Whether the redevelopment or reuse of the
25 site will be achieved in a timely manner.

1 “(7) Whether and to what extent the State or
2 unit or units of general local government in which
3 the site is located have established an ongoing pro-
4 gram or programs to facilitate the redevelopment or
5 reuse of abandoned sites.

6 “(8) Such other factors as the Secretary consid-
7 ers relevant to the purposes of the program author-
8 ized by this title.

9 “(b) PRIORITY.—The Secretary (or in the case of a
10 State demonstration program under section 905, the Gov-
11 ernor) shall give the greatest priority to the criteria re-
12 ferred to in paragraphs (1) through (7) of subsection (a),
13 and shall give an equal degree of priority to each criterion
14 referred to in paragraphs (1) through (7) of subsection
15 (a).

16 **“SEC. 908. FEDERAL FACILITIES EXCLUDED.**

17 “The Secretary (or in the case of a State demonstra-
18 tion program under section 905, the Governor) may not
19 award a grant under this title for a reuse action on a site
20 controlled by the Federal Government.

21 **“SEC. 909. ELIGIBLE COSTS.**

22 “(a) IN GENERAL.—Administrative and
23 nonadministrative costs for a reuse action carried out pur-
24 suant to a grant program under section 904 or a State

1 demonstration program under section 905 shall constitute
2 eligible costs.

3 “(b) NONADMINISTRATIVE COSTS DEFINED.—For
4 the purposes of this section, the term ‘nonadministrative
5 costs’ shall include the cost of—

6 “(1) identifying the probable extent and nature
7 of, and preferred manner of carrying out, a reuse
8 action at an abandoned site;

9 “(2) fees relating to any application for ap-
10 proval by a Federal agency or a department or agen-
11 cy of a State or a political subdivision of a State,
12 that is required and necessary to carry out a reuse
13 action at an abandoned site; and

14 “(3) implementing a reuse action.

15 “(c) ADMINISTRATIVE COST LIMITATION.—Not more
16 than 10 percent of the amount of a grant award under
17 this title may be used for administrative costs.

18 **“SEC. 910. LIABILITY UNDER OTHER LAW; AVOIDANCE OF**
19 **WINDFALL.**

20 “(a) LIABILITY UNDER OTHER LAW.—Nothing in
21 this title is intended to relieve any person who had an in-
22 terest in an abandoned site prior to the initiation of a
23 reuse action that is the subject of grant award under this
24 title from liability under, or other requirements of, any
25 other provision of law.

1 “(b) AVOIDANCE OF WINDFALL.—The Secretary (or
2 in the case of a State demonstration program under sec-
3 tion 905, the Governor) shall implement a grant program
4 under this title in a manner that does not—

5 “(1) relieve from liability under any other law
6 any person referred to in subsection (a); and

7 “(2) reduce the incentive of any such person to
8 participate in funding the non-Federal share re-
9 quired under section 906.

10 “(c) STATUTORY INTERPRETATION.—Nothing in
11 subsection (b) is intended to prevent a local grantee who
12 acquires an abandoned site solely for the purpose of carry-
13 ing out a proposal to redevelop or reuse the site from ob-
14 taining assistance under this title.

15 **“SEC. 911. EVALUATION AND REPORT.**

16 “(a) EVALUATION.—

17 “(1) IN GENERAL.—Not later than December
18 31, 1995, the Secretary shall conduct an initial eval-
19 uation of the grant program established under sec-
20 tion 904 and any State demonstration program es-
21 tablished under section 905. The evaluation shall be
22 based on information that is available at the time of
23 the evaluation.

24 “(2) DATA COLLECTION.—The Secretary (or in
25 the case of a State demonstration program under

1 section 905, the Governor) shall require that as a
2 condition to receiving a grant under this title, each
3 grant recipient shall submit to the Secretary' data
4 that indicate the actual costs, benefits, sources and
5 uses of funds, the results of an assisted redevelopment
6 or reuse project, and such other data as the
7 Secretary determines to be necessary for the evaluation
8 referred to in paragraph (1).

9 “(b) CONFIDENTIALITY OF DATA COLLECTED.—The
10 Secretary shall maintain confidentiality of data collected
11 from grant recipients in accordance with any applicable
12 law.

13 “(c) REPORT.—Upon completion of the evaluation referred
14 to in subsection (a), but not later than December
15 31, 1995, the Secretary shall submit a report to the Congress
16 containing the findings and recommendations of the
17 Secretary.

18 “(d) USE OF CONTRACTORS.—The Secretary may, in
19 accordance with any applicable law, enter into agreements
20 with such private contractors (including institutions of
21 higher education), as the Secretary determines necessary
22 for the preparation of the report referred to in subsection
23 (c).

1 **"SEC. 912. TECHNICAL ASSISTANCE.**

2 “(a) IN GENERAL.—The Secretary may use up to 5
3 percent of any amount appropriated to implement this
4 title to fund technical assistance grants by the Secretary
5 (or in the case of a State demonstration program under
6 section 905, the Governor) to local grantees to facilitate
7 their participation in the demonstration program estab-
8 lished by this title and their successful achievement of the
9 purposes of this title.

10 “(b) PURPOSES.—A local grantee may use a grant
11 under this section to pay for up to the full amount of its
12 costs—

13 “(1) to identify the probable extent and nature
14 of, and preferred manner of carrying out, a reuse
15 action at an abandoned site;

16 “(2) to identify potential non-Federal sources of
17 capital for the redevelopment or reuse of an aban-
18 doned site;

19 “(3) to determine the means of implementing in
20 connection with a reuse action a job training pro-
21 gram that benefits persons of low-income who are
22 residents of the local community in which an aban-
23 doned site is located;

24 “(4) to identify public agencies cooperation with
25 which would be necessary to carry out a reuse ac-
26 tion; or

1 “(5) for such other purposes approved by the
2 Secretary as directly relate to the local grantee’s
3 successfully organizing the human and other re-
4 sources and cooperative action necessary to carrying
5 out a reuse action.

6 “(c) REPAYMENT OBLIGATION.—If a local grantee
7 obtains a technical assistance grant pursuant to this sec-
8 tion and subsequently obtains a grant to carry out a reuse
9 action under this title, the grant recipient’s payment obli-
10 gation under section 906(d) shall include the amount of
11 the technical assistance grant.

12 **“SEC. 913. REGULATIONS.**

13 “Not later than 180 days after the date of enactment
14 of this title, the Secretary shall issue such rules and regu-
15 lations as are necessary to carry out this title.

16 **“SEC. 914. AUTHORIZATION OF APPROPRIATIONS.**

17 “There are authorized to be appropriated to the De-
18 partment of Housing and Urban Development for the pur-
19 poses of carrying out this title \$100,000,000 for each of
20 the fiscal years 1994, 1995, and 1996. Such sums shall
21 remain available until expended.”.

○

RESPONSE TO WRITTEN QUESTIONS OF SENATOR RIEGLE FROM SANDY McCOLLUM

Q.1. To what extent are the contaminated sites in the southeast Baltimore community that SECO serves economically abandoned, as defined in S. 299?

A.1. Acres of land stand dormant within the southeast community due to the abandonment of several large parcels of contaminated properties. New industry, unwilling to take on the responsibility of a potential environment hazard, passes up some of the most valuable industrial property Baltimore has to offer. However this blight does not stop with only the contaminated properties, but inches its way to adjoining properties. With industry vacating properties for reasons of relocation, expansion, or closure, often the property they leave behind is overlooked due to its neighboring contaminated site. Unfortunately, this is become more the rule than a mere exception, leaving vast wastelands in some of southeast's once highly concentrated industrial areas.

Q.2. If we do not determine ways to reuse abandoned industrial and commercial sites:

(a) Can the business expansion and credit needs of persons wanting to operate businesses in distressed communities—particularly small businesses—be met?

(b) What will happen to the financial condition of local communities?

(c) What are the economic consequences for the residents of our distressed communities?

A.2. (a) In answering this question, you can only but look around in much of the abandoned areas of southeast Baltimore to understand that it is not a prediction as to the future but a testimony of the past and present. Already many smaller industrial concerns, experiencing growing pains have looked to neighboring vacant properties only to find the risk too high or the funding unobtainable through traditional resources, for them to remain in the industrial district. Their choice often becomes one of necessity, to grow and prosper they must relocate, often to the open spaces of one of the counties. In many cases their cost of doing business increases due to location, shipping, and access. However, if there would be a way in which these companies could remain in their present location and grow, offering new employment opportunities, most would decide to stay. A means of making the abandoned properties once again attractive must be addressed for the viability of all.

(b) The financial condition of the local communities surrounding the industrial district will suffer dramatically. Loss of jobs to those who have no transportation to the new location or who cannot relocate their homes and families; loss of business to those small support businesses that depend on many of the larger firms for their livelihood; unemployment rates soar; loss of homes and in some extreme cases the actual loss of family. A "domino effect" that no community wants to experience, is unfortunately being experienced in southeast Baltimore today.

(c) As I discussed in part "b" of this question the economic consequences can be and are dramatic. Increased unemployment lead-

ing to less disposable income, families forced to deplete the family savings accounts, loss of property, the lucky unemployed find jobs at only a fraction of their past wages. For many the loss of medical coverage puts an even greater burden on some families that suffer from an illness or injury. Loss of business can and is devastating to any community, unfortunately we have already witnessed the effects and can only hope that a way to turn things around will come from our leaders in Washington.

Q.3. Is it feasible to increase the non-Federal share of financing reuse projects about the 25 percent S. 299 requires?

A.3. Perhaps in the future an increase could be addressed, however due to the state of the economy and the urgency and expediency which is necessary to save many of our communities, a 25 percent share will be manageable for most interested parties, a larger share may only prove to deter some from participating.

Q.4. Are commercial lenders likely to participate in the financing of the reuse projects S. 299 contemplates?

A.4. Lending like any other business looks for the potential return on the dollar. If they feel that the risk factor has been reduced they may possibly be enticed into participation. Given the current rigid banking regulations, it may prove to be more difficult. However if the industry is to also grow they may have to address current regulations and begin to relax them in order to experience this growth. The bottom line being if it will be able to experience growth and a sizable return they will be interested.

Q.5. Do local governments have sufficient jurisdiction over community redevelopment activities to be assured that projects undertaken by non-profit community development corporations will be consistent with local public development strategies?

A.5. If a local jurisdiction is to maintain a certain sense of control of situations within its communities, checks and balances must be built in. We in Baltimore are very fortunate to have a check and balance system that protects not only the city but also the communities alike. A sense of "partnership" is experienced when both planning and implementing projects, be they large or small. We are fortunate in that we share ideas and resources so the partnership's endeavors are realized and can benefit us all.

RESPONSE TO WRITTEN QUESTIONS OF SENATOR BOXER FROM SANDY McCOLLUM

Re-development agencies place a priority on putting abandoned sites to productive uses. In contrast, environmental agencies place a priority on ensuring that the sites do not pose a health hazard.

Q.2. Does this program create conflicts between State environmental laws or agencies and the mission of re-development agencies? If so, how would these conflicts be resolved?

A.2. Granted in the past conflicts did occur frequently concerning remediation and re-development. However, the State of Maryland is currently considering a voluntary cleanup program to aid in funding of administrative expenses of State staff in reviewing and implementing such programs. The State has also exercised discre-

tion in entering into suit cases against purchasers of contaminated sites where it was the prior owner and not the purchaser responsible for the condition. Maryland has also, occasionally extended credit to site purchasers, where part of the loan funds were used for cleanup. With initiatives such as these, accompanied by legislation the potential for re-development of our abandoned industrial sites becomes more real.

Q.3. What has been your experience in dealing with bankers who are hesitant to participate in land re-development due to the risks associated with having a site deemed to require costly cleanup?

A.3. My personal experience in this matter is limited, however when I posed a hypothetical situation to some bankers their responses were similar. They explained that each case must be addressed on its own merit, the rate of return must be addressed, what the potential risk factor of unforeseen hazards would be, and of course, the history and plan of the potential client. They all showed some interest to various degrees, however the unforeseen risk player an important part in any decision, but they did not rule out the potential completely.

Q.4. What kind of mechanism is needed to satisfy the financial community that they will not be penalized for taking a risk on site that they would normally avoid because of this liability?

A.4. As I stated in "A2" the cooperation of the State and pending legislation could help in reducing the risk factor. Lending institutions are businesses, they need to know that their liabilities are reduced and their potential payback is secured.

Yesterday, President Clinton proposed a new grant program to help distresses areas. As I understand the proposal, local leaders would compete for grants to create 110 enterprise zones and 10 empowerment zones.

Q.5. What is your reaction to the plan recently announced by the President?

A.5. We are very excited by President Clinton's proposal. The creation of these zones, with the generous package accompanying them, along with the passage of S. 299 would make the dormant industrial areas viable and productive parcels once again. The two proposal jointly would add a generous incentive to industry to once again look to the older industrial areas for their locations.

Q.6. How does it fit in with the legislation we are reviewing today?

A.6. President Clinton's proposal would be the "icing on the cake." Now interested parties would not only have the opportunity to purchase, remediate, and locate in our older abandoned industrial areas, but they would also be given numerous credits for doing so.

RESPONSE TO WRITTEN QUESTIONS OF SENATOR BOXER FROM SALVATORE SCOTTO

Q.2. Redevelopment agencies place a priority on cutting abandoned sites to productive uses. In contrast, environmental agencies place a priority on ensuring that the sites do not pose a health hazard. Does this program create conflicts between State environmental

laws or agencies and the mission of redevelopment agencies? If so, how would these conflicts be resolved?

A.2. Under this program, the mission of redevelopment agencies complements that of environmental agencies in that both seek the cleanup of abandoned land. For many years, the mission of redevelopment agencies, to utilize abandoned land, has been thwarted by the cost, confusion and time associated with the environmental review, analysis, and remediation process.

This program would help bridge that gap by providing the resources necessary to overcome these obstacles and reclaim the land. The panoply of environmental laws and regulations at the local, State, and Federal level that assign far-reaching responsibility, and civil and criminal liability to owners and operators of redevelopment sites with environmental conditions ensures that those involved with redeveloping the land also place a very high priority on ensuring that redevelopment sites do not pose a health hazard. In the past, the high cost of the cleanup of abandoned sites has resulted in legal battles over who has the legal responsibility to pay for the cleanup. Rather than getting tied up in court, with no one winning but the lawyers, which has been the result of Superfund/CERCLA, this program sets aside the question of who is responsible for the condition of the site and moves forward by providing the resources necessary to get started on the cleanup.

There is always the potential for conflict between agencies that have different objectives and that define "risk" in different ways. It may be necessary to arrive at a compromise within which the health risks of remediation are minimized rather than brought to zero. Agencies have to look more realistically at risk/benefits and in minimizing the adverse effects and maximizing benefits. A zero risk solution doesn't exist. An independent group of experts such as assembled with Brookhaven-Gowanus-Rensselaer Environmental Education & Employment Program (BGREEEP) can orchestrate the dialogue needed to resolve the conflicts should they develop. BGREEEP would produce a 'prototype' model of technical solutions with the specific intent on "making the process work."

In cleaning up abandoned sites, the mission of redevelopment agencies and environmental agencies do not conflict. Moreover, under this program, the tools necessary to accomplish their parallel missions will be provided.

Q.3. What has been your experience in dealing with bankers who are hesitant to participate in land redevelopment due to the risks associated with having a site deemed to require costly cleanup?

A.3. The banking community as well as industry will require that the interpretation that says that a new user will inherit the sins of the former owner must be adjusted. The remediation undertaken under any original agreement should be the financial burden assumed. Should new and unknown hazards be uncovered during remediation, neither the financial institutions or the industrial partner should shoulder the financial burden without additional funding from a government.

Similarly, once a remediation project is approved and begun, the regulatory agencies should be obliged to NOT change the regulations or the contaminant levels required of remediation. That is,

once the cleanup levels and procedures are accepted, they should not be changed during the life of the project.

In New York City virtually all development involves the redevelopment of land which had previous uses. And, all bankers are hesitant to participate in land redevelopment which might require a costly cleanup. In the last few years, banks have been requiring a growing amount of expensive and extensive site analysis and assessment prior to getting involved in redevelopment projects. This is a result of recent court decisions which have reduced the exemption of secured creditors. All banks require some measure of environmental review over and above any analysis conducted by governmental agencies or within a governmental framework (e.g., NEPA or the New York City or State Environmental Quality Review Acts known respectively as CEQR and SEQRA). However, there is a wide divergence on what that review entails among banks. Even on redevelopment sites that are not likely to have a costly cleanup based on previous uses, some banks may require costly and time-consuming analysis. Banks differ only in the extent of their requirements, and in their level of sophistication to adequately quantify and qualify the risks associated with environmental conditions and their ability to interpret the ramifications of an environmental assessment.

On sites where a "Phase I Assessment" shows the possibility of contamination which might require a costly cleanup, the banks have been unwilling to get involved in projects until the contamination has been fully remediated. This is especially a problem on affordable housing sites which involve fixed costs and limited subsidies and where the market cannot bear the burden of this expensive and lengthy testing process. Due to the lack of guidance on the question of "How Clean is Clean?", it is virtually impossible to estimate the accurate cost of cleaning up a site. Banks are unwilling to provide construction financing for sites with these conditions and redevelopment agencies cannot enter into serious discussions with them until there is no longer any contamination. This requires a significant expenditure either by the City or by the private developer who, if the site assessment reveals the need for a costly cleanup which makes infeasible the economics of developing affordable housing, has no way to recoup the cost. (Hopefully, the recent—May 1993—issuance of the ASTM American Society for Testing and Materials—standards for screening and Phase I analysis, will help to standardize banks' requirements.)

In recognition of the potential exposure that banks have under the law, on February 25, 1993, the FDIC issued guidelines strongly recommending that banks set up environmental risk programs in an attempt to limit their exposure to liability. The FDIC's eight component program, which requires the involvement of senior bank personnel and the bank's board of directors in the risk management program, requires that banks conduct an environmental risk analysis and further inquiry where warranted, prior to making loans.

Recent court decisions and these new FDIC requirements for environmental risk management programs are likely to result in bankers requiring ever more up front expensive environmental assessments to ensure that banks understand the extent of the cost

of the cleanup, and take appropriate steps to protect their investment and protect against liability.

Q.4. What kind of mechanism is needed to satisfy the financial community that they will not be penalized for taking a risk on a site that they would normally avoid because of this liability?

A.4. A mechanism that reduces the bank's exposure to liability is needed to satisfy the financial community that they will not be penalized for taking a risk on a site that they would normally avoid because of this liability.

At best, this mechanism would be an expanded exemption for banks from liability which has been eroded by recent court decisions. While the April 24, 1992 EPA rule on lender liability under CERCLA offers substantial protections to lenders against liability for contamination they are innocent of causing, judicial interpretation of the secured creditor exemption is far from settled and there are situations where banks may not be protected by the EPA rule. In addition, under the innocent landowner defense against liability, banks still have the responsibility to make an "appropriate" inquiry into previous uses of the property to ensure that no environmental condition exists. In addition, there are those who are seeking to overturn the secured creditor exemption as CERCLA comes up for reauthorization in 1994.

An alternative mechanism to reduce banks' liability would be for the government to indemnify against environmental risk. Municipalities are either unwilling and/or unable to do this due to the tremendous potential cost. Significant financial help from the Federal Government would be required for this alternative. A third and more likely alternative is for banks to purchase an insurance policy to cover potential costs. However, existing private insurance coverage is insufficient and an insurance policy which adequately covers banks' involvement in a redevelopment site that requires a costly cleanup is likely to be very expensive. Federal funding to provide an insurance vehicle or enhance existing private risk insurance would be required.

A written expression of interest would be helpful in order to start the process of structuring a new form of insurance for such projects—preferably from an authoritative source such as the Senate Banking Committee or the House equivalent. To pay the consultants to actually write up the new "land reclamation" or "S. 299" insurance methodology formally, some sort of budget will have to be in place.

Q.5. What is your reaction to the plan recently announced by the President?

A.5. The concept of competition for grant aid assumes that there is no mechanism for ranking the importance and significance of a remediation effort. Sites should be ranked. The competition for funds should then be among and between projects of equal rank. For example, a remediation effort that will affect 250,000 individuals in a deprived area should not compete for funds where a major cleanup effort effects a wilderness area or where the cause of contamination is the proximity or existence of a DOD site.

Why would the President propose that we "compete" for the grants? This would introduce politics into the process, so that the

merits of the program will play only a minor role. Was this not the reason that the stimulus package failed, because too much 'pork barrel' found its way into the program? If there is to be "competition" it should be on the qualitative and 'need' aspects of the program—how well was it conceived, how qualified and motivated are the "managers" who would make it a success. And most importantly, an economic stimulus package should create jobs. The biggest problem in the highly distressed and socially isolated places of urban poverty is that there is no income earning potential.

As best put in the testimony of Dr. Benjamin F. Chavis, Jr., "Clearly, we need to combine the goals of environmental reclamation and reuse with economic revitalization and job creation. This is the theme consonant with the present demand to choose policy options which ensure both environmental protection with economic prosperity."

Q.6. How does it fit in with the legislation we are reviewing today?

A.6. The proposed legislation has no mechanism for priority ranking of remediation sites. This may be a point of contention and undue politicizing of the areas targeted for support.

The funding mechanism would have to be separated for the two programs; otherwise, urban renewal projects involving environmental cleanup could not compete with projects that are easy, require no cleanup, and can be done right away. We would end up having more parks and bicycle paths—and the challenging projects might never see the light of day. The 'fit' stems from the creation of many layers of jobs that produce incremental income for the community. For example, San Antonio enjoys an income of \$2 billion per annum just from recreational income from the "River Walk" canal system.

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